

**Town of Rotterdam Planning Commission
Minutes of May 21, 2024 Meeting**

The Rotterdam Planning Commission held a meeting on Tuesday, May 21, 2024, at 7:30 p.m. at the Rotterdam Town Hall, 1100 Sunrise Boulevard, Rotterdam, New York 12306.

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

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

Waivers:

- 1. Body by Morgana LLC (contract vendee) – 2601 Curry Road.** The applicant requests a Waiver of Site Plan review to operate a fitness center/yoga studio, ±3,136 gross floor area, former Crosstown Vet, on a ±0.92-acre parcel.

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

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.

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

- 2. TwistN Flip Gymnastics – 93 W. Campbell Road.** The applicant requests a Waiver of Site Plan review to operate a gymnastics facility in combined tenant spaces C-110, C-112 and C-114 former Limited Too, The Finish Line and Glenpeter Jewelers, ±9,200 square feet, from June 1, 2024 – May 31, 2029, in ViaPort Rotterdam.

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

1. Compliance with all NYS Building and Fire Codes.
2. Applicant must obtain a Fire Inspection and 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.

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

Attendance was taken and a determined there is a quorum.

The Pledge of Allegiance to the Flag was recited.

Ms. Scannell: The first order of business is to approve the minutes from our last meeting. Do I have a motion?

Mr. Calder: I'll make the motion.

Mr. Collins: I'll second it.

Ms. Scannell: Lisa, could you please call the roll.

Ms. Gallo: Mr. Collins?

Mr. Collins: Yes.

Ms. Gallo: Mrs. Flansburg?

Mrs. Flansburg: Yes.

Ms. Gallo: Mr. D'Alessandro?

Mr. D'Alessandro: Yes.

Ms. Gallo: Mr. Calder?

Mr. Calder: Yes.

Ms. Gallo: Mr. Signore?

Mr. Signore: Yes.

Ms. Gallo: Mr. Miglucchi?

Mr. Miglucchi: Yes.

Ms. Gallo: Ms. Scannell?

Ms. Scannell: Yes.

1. **Michael Demers – 595 Currybush Road. Final Two (2) Lot Subdivision Public Hearing: Lot 1 = ±2.68 acres with existing single-family residence, Remaining Lands = ±95.61 acres. Engineer: Ingalls & Associates.**

Ms. Scannell: You can go ahead and present and then I will open the public meeting.

Mr. Pagan: I'm Chad Pagan with Ingalls. The last time that I was here, we went through everything and set the public hearing and we are back here to go through the public hearing. I am here for a public hearing and hopefully there is no one here and if there is or isn't, you guys make the decision and hopefully we move forward with our subdivision.

Ms. Scannell: Does anybody have any questions or concerns, Mr. Collins?

Mr. Collins: No, we have seen this I don't know how many times, so no, I understand it and I'm okay with it and I feel people have a right to do certain things with their property and I always believed that.

Ms. Scannell: Mr. Calder?

Mr. Calder: I don't have no problem with this proposition at all.

Ms. Scannell: Super, Mr. D'Alessandro?

Mr. D'Alessandro: No questions.

Ms. Scannell: Mrs. Flansburg?

Mrs. Flansburg: No questions.

Ms. Scannell: Mr. Signore?

Mr. Signore: I'm good with it.

Ms. Scannell: Mr. Miglucchi?

Mr. Miglucchi: Looks fine to me.

Ms. Scannell: Peter, comments, questions, concerns?

Mr. Comenzo: The only comment is there are a couple of DPW comments in there about pinning and capping and I spoke with Chad earlier today about it, other than that it is pretty straightforward.

Ms. Scannell: Courtney, any concerns?

Ms. Heinel: I hate to sound like a broken record, nope. It is pretty straightforward, and we have seen this project quite a few times at this point and I think we have hammered it out most of it except for what Peter stated those couple of DPW comments.

Ms. Scannell: And you are in a good place with the DPW comments?

Mr. Pagan: Yes, we addressed the comments mostly regarding showing the septic area and that we met guidelines for on-site septic Health Department and the separation of the property and the wells and so forth, which we did and then the other thing was the client had some stuff he had to take care of with the Building Department to get us back in and that is how we got back here because he satisfied everything.

Ms. Scannell: Wonderful. Great. Well, at this point, I'm going to open the public meeting. If there is anyone here who would like to speak at the public meeting. Anyone to speak at the public hearing? I'm opening the public hearing. All right, I am closing the public hearing. Thank you.

I think we need to have a negative declaration for SEQR.

Mr. Collins: I will make that motion.

Ms. Scannell: We have a motion.

Mrs. Flansburg: I'll second.

Ms. Scannell: Mrs. Flansburg seconds. Thank you. Lisa, could you please call the roll.

Ms. Gallo: Mr. Collins?

Mr. Collins: Yes.

Ms. Gallo: Mrs. Flansburg?

Mrs. Flansburg: Yes.

Ms. Gallo: Mr. D'Alessandro?

Mr. D'Alessandro: Yes.

Ms. Gallo: Mr. Calder?

Mr. Calder: Yes.

Ms. Gallo: Mr. Signore?

Mr. Signore: Yes.

Ms. Gallo: Mr. Miglucchi?

Mr. Miglucchi: Yes.

Ms. Gallo: Ms. Scannell?

Ms. Scannell: Yes.

Motion carried.

I would at this time entertain a motion for the subdivision.

Mrs. Flansburg: I will make a motion that we approve the subdivision subject to all the written and oral comments.

Ms. Scannell: Do I have a second?

Mr. Miglucci: I'll second.

Ms. Scannell: Lisa, can you please call the roll.

Ms. Gallo: Mr. Collins?

Mr. Collins: Yes.

Ms. Gallo: Mrs. Flansburg?

Mrs. Flansburg: Yes.

Ms. Gallo: Mr. D'Alessandro?

Mr. D'Alessandro: Yes.

Ms. Gallo: Mr. Calder?

Mr. Calder: Yes.

Ms. Gallo: Mr. Signore?

Mr. Signore: Yes.

Ms. Gallo: Mr. Miglucci?

Mr. Miglucci: Yes.

Ms. Gallo: Ms. Scannell?

Ms. Scannell: Yes.

Motion carried. I hope that you are leaving with a smile and maybe you will come back next time with a different project.



Town of Rotterdam
Office of the Planning Commission

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

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Resolution Number PC30-2024

Moved by Mrs. Flansburg seconded by Mr. Miglucci
Applicant: Michael Demers

Applicant: Michael Demers

Project Location: 595 Currybush Road
Rotterdam, NY

Tax Number or Numbers: 47.-47-8

Proposed Project: Final Two (2) Lot Subdivision Public Hearing: Lot 1 = ±2.68 acres with existing single-family residence, Remaining Lands = ±95.61 acres.

WHEREAS, public meetings were conducted by the Town of Rotterdam Planning Commission on January 23, 2024, April 16, 2024, and a public hearing on May 21, 2024, to consider the above referenced Two (2) Lot Subdivision; and,

WHEREAS, this matter was discussed and approved, as meeting the standards for Subdivision as set forth in Chapter 249 of the Code of the Town of Rotterdam entitled SUBDIVISION OF LAND; and,

WHEREAS, the Town of Rotterdam Planning Commission after careful consideration of the application, testimony of the applicant and/or representative and members of the public in attendance at the hearing, and all other materials of record **HEREBY APPROVES THE TWO (2) LOT SUBDIVISION; NOW**

IT IS HEREBY RESOLVED THAT this Final Two (2) Lot Subdivision is approved with the following conditions as stipulated by the Planning Commission:

1. Pin and cap new lot corners prior to the Chairman's signature.
2. The final maps (with all necessary changes discussed at the Planning Commission) need to be submitted for signature and filing with Schenectady County.
3. The Planning Commission Chairman will sign up to two (2) Mylar's (One for Schenectady County and one for the applicant).
4. Mylars need to be filed with Schenectady County Clerk's office within 10 days.
5. After signature and filing with Schenectady County six (6) paper copies shall be returned to the Planning Commission office.

Peter J. Comenzo
Senior Planner

Kimberly Ricker Scannell
Planning Commission Chairman



Town of Rotterdam
Office of the Planning Commission

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

Date: May 21, 2024

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

SEQRA Status: Type I
Type II
Unlisted

Conditioned Negative Declaration: Yes
No

Owner: Michael Demers
590 Currybush Road
Schenectady, NY 12306

Tax Map Number(s): #47.00-47-8

Project Location: 595 Currybush Road
Schenectady, NY 12306

Zoning: Agriculture (A-1) Zoning District

Action: Creation of a ±2.68-acre lot with an existing single-family residence from a ±98.3-acre parcel.

Reasons Supporting This Determination:

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

This project is an Unlisted Action and the Planning Commission conducted as a SEQR coordinated review. The applicant has supplied an Environmental Assessment Form and the Planning Commission has or has caused to complete Part 2 of this checklist. The Department of Public Works for the Town of Rotterdam transmitted the application information to all involved and interested agencies for review on April 16, 2024. All comments and concerns have been addressed.

This subdivision request is for the creation of a ±2.68-acre lot with an existing single-family residence from a ±98.3-acre parcel.

The property is in the Agriculture Industrial (I-1) zone. The existing single-family residence is served by an on-site well and septic system. The remaining lands are being labeled as such and have not been fully surveyed. Any future development of this property will need to be evaluated and approved by the appropriate regulatory agencies. No changes to the existing use of the land is anticipated at this time.

After a review of the application materials, Environmental Assessment Form, and comments received on this proposal, the Town of Rotterdam Planning Commission has determined that this proposal will not have a significant adverse impact on the environment.

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

- (i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
- (ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;
- (iii) the impairment of the environmental characteristics of a Critical Environmental Area.
- (iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;
- (v) the impairment of the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character;
- (vi) a major change in the use of either the quantity or type of energy;
- (vii) the creation of a hazard to human health;
- (viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;
- (ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
- (x) the creation of a material demand for other actions that would result in one of the above consequences;

(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

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

(i) included in any long-range plan of which the action under consideration is a part;

(ii) likely to be undertaken as a result thereof; or

(iii) dependent thereon.

(3) The significance of a likely consequence (i.e., whether it is material, substantial, large or important) has been assessed in connection with:

(i) its setting (e.g., urban or rural);

(ii) its probability of occurrence;

(iii) its duration;

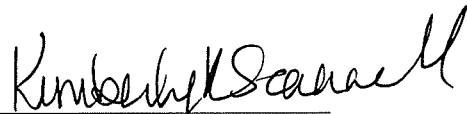
(iv) its irreversibility;

(v) its geographic scope;

(vi) its magnitude; and

(vii) the number of people affected

The environmental effects of the above-described action were discussed at regularly scheduled Planning Commission public hearing held on May 21, 2023. Adoption of this negative declaration was moved by Mr. Collins, seconded by Mrs. Flansburg and approved by the Rotterdam Planning Commission.



Kimberly Ricker Scannell
Planning Commission Chairman

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

Ms. Scannell: We have been asked by the Town Board to provide them a report and recommendation to amend Chapter 270, entitled “Zoning” to repeal Local Law #1 of the Year 2017 entitled Solar Energy Facilities with associated fees related to “green” energy and adopt an updated Solar Energy Facilities code.

Peter, take it away.

Mr. Comenzo: Peter Comenzo, Town Planner. I received an email this afternoon from Patty Malatese and I am going to read that into the record.

“Kim and Peter, I hope this finds you and the Planning Commission members well. Requesting this introduction to be shared with Planning Commission prior to the members making their recommendations to the Town Board. The EAC is a volunteer group appointed by the Town. The public was invited to be considered for appointment through the Town Board Meetings and an article published in the Gazette. Meetings were attended by Town Board liaisons, Joe Mastrianni and Teri Gallucci and Planning Commission liaison, Joe Miglucchi. The group is diverse and brings many talents, knowledge, and experience to the table. Some of the expertise includes finance, owners of home roof top solar or ground mounted solar project and development, previous volunteer committee and commission involvement, medical professional, real estate experience, legal experience, knowledge of wells, soils and topography, environmentalists as well as an architect and two (2) volunteer firefighters. The committee is geographically distributed throughout the town to include Rotterdam Junction, Pattersonville, Rynex Corners, Putnam Road and Rotterdam Proper. This provides for a balanced perspective to geology and lifestyles. It has been a privilege to work with them all.

The committee initially met with NYSERDA and the TDE. We were provided with NYS model guidance and a sampling of solar laws provided by Collier’s. That is the engineering firm, the TDE. See attached. We researched and utilized language and Code from the Comprehensive Board’s Regulations. See attached. We researched and networked with local municipalities exchanging information and ideas. We established a mission statement which is attached where the newly updated Comprehensive Plan was incorporated.

We have provided the Town Board with meeting summaries and copies of the draft code. We received feedback along the way. The draft code is intended to be comprehensive and detailed. We had the luxury of being able to learn from Princetown, Route 160 20 mega watt project, the landfill 5S Monolith, the Hungry Chicken, Gifford and multiple other sites. We studied sites that are well sited and fit in with the Comprehensive Plan and some examples of what is not. Members of the committee and several Board members have taken local solar site tours to visual and experience the size and saturation of arrays. The committee had many conversations regarding property rights and property values. There are two (2) sets of rights to consider. The rights of the participating and non-participating landowners. The committee’s effort to help allow solar with a balance to mitigate solar sprawl. 90 megawatts is under development just over the town line in the Town of Florida. 300 megawatts involving 2,666 acres is in the permitting process with Town of Glen.

ELP, Rotterdam LLC is a utilities scale solar project in the pre application process permitting through OARS. The project is proposed in Rotterdam and Princetown. If Rotterdam does not have updated code in place, the 2017 Code will be utilized for permitting. Time is of the essence.

On May 16, 2024, the committee was recognized by the Town Board, and we received a certificate of proclamation for submitting a draft code that coincides with changes in technology and state regulations. For making sure the Town of Rotterdam residents land and greenspace is protected. The proximity to the power lines makes Rotterdam a desirable location. We owe it to the residents to have a comprehensive solar code in place. Variances can be granted as appropriate, and laws can be updated in the future.

Please consider a positive recommendation to the Town Board. I have included the EAC on this communication. EAC please provide any additional comments that you may have. The Planning Commission meets today at 7 p.m.

Respectfully submitted, Patty.”

Ms. Scannell: Thank you Peter and a mission statement that I believe Mrs. Malatese sent is the first two (2) pages of the actual code.

I was going to ask if you all had questions, but I was not sure if you wanted to address Peter...

Mr. Comenzo: I did not write the code so that was prepared by the Energy Adviseement Committee.

Ms. Scannell: Mr. Calder, if you have questions for Peter, go ahead.

Mr. Calder: I know this may spilt the Board, I hope it does not because we are going to do the right thing and hopefully all have a chance to learn about this whole project. When did this first materialized that we knew “Inaudible” was going to happen?

Mr. Comenzo: What is that?

Mr. Calder: This whole change of all the material here. When was it first decided?

Mr. Comenzo: I think it was January of 2023. When the moratorium was adopted by the Town...

Ms. Heinel: The EAC was not made until a couple of months after that.

Ms. Scannell: It was in February of 2023.

Mr. Comenzo: So, there was a moratorium and then what happened was a Town Board member was involved in the assembly of, there was a solicitation, from my understanding of members of the community that wanted to be on the board. There are how many members?

Ms. Heinel: Quite a few.

Mr. Calder: That was a year ago.

Mr. Comenzo: The other thing prior to the Town Board entertaining the moratorium, we had looked at the solar code or I had looked at the solar code and said we should look at amending the code and we retained Collier Engineers and I believe it was \$10,000 committed to getting an expert involved in the process of rewriting the code. Solar is something that I understand a little bit about but obviously as the Board members and you have looked at other projects, they are unique. You are not building a bank. You are building something that has a lot of components that are really unfamiliar.

Mr. Calder: This is a very important piece of legislation. It really is. I picked up my packet on Sunday and this morning was the first time that I had a chance to sit down and read through it. I understand that maybe a couple of the board members had the same issue in trying to get it done. I do have some questions regarding some of this. I did not know that we were under a serious time frame to get this done. I would like to, just me would like to have seen this maybe great, but I would have liked to see this a lot earlier and now all of a sudden, we find out 20 minutes that there is a lot of pressure to get this done. We have had very little time to research it. That is the only thing that I am concerned with.

I think some of the things that are written in here with my experience with the Town being on the Board and the Deputy Supervisor and working with your office and other offices here, there are a lot of things that are going to be followed up by our Town people downstairs. It looks like you are going to have to hire some more people to watch everything that is in this that says we should do here.

Ms. Scannell: Is there such a thing that can be given as a recommendation that is neither positive nor negative because certain Board Members have not had the time to read the information. I am asking a question, and I really do not know the answer to that or does the recommendation and report have to be one or the other, positive, or negative.

Ms. Heinel: It is a recommendation and report. The recommendation would be a yes or a no, theoretically the recommendation could be we can't give you answer because we haven't had enough time to review it. Sure.

Mr. Calder: But that would be a failure and that way we are stuck in a position where...

Mr. Collins: We table it.

Ms. Heinel: Somebody has to make a motion to table.

Mr. Calder: I understand that. I do.

Ms. Heinel: But she was asking a different question. She was asking whether the report and recommendation could be something other than a yes or a no. It's a report and recommendation. So, it's whatever the Board makes of what is in front of them. It's either a yes or a no and you can, if you're saying you haven't had enough time to review it, it's going to be a no recommendation based off that question.

Mr. Calder: It's not so much the time to review it, it's time to make notes because rightfully so, I don't know a whole lot about solar. We talked about that, and Kim brought up the project and "Inaudible..." and we agreed that we should not be going any farther and we should put a moratorium on these things, and this is what we did. Only because we didn't have enough facts. The same with the battery storage program. That is another thing that we didn't have enough facts about. We are trying to learn which is good. There is nothing wrong with that.

Ms. Scannell: I recognize, and I respect what you are saying, and I do, I understand where you're coming from, and I don't disagree with you. The reason is I'm asking the question is because the Town Board has asked us to do something and in what they are doing expedited timeframe.

Ms. Heinel: I just want to clarify, first of all this Board is not beholden to Town Board. They are completely separate boards, and one is not allowed to influence the other on decisions or things like that. Nor did the Town Board put any stipulation on the time that this board had to make its decision on its report and recommendation. All they did is refer it for the report and recommendation. They did not put any stipulation that it had to be done at this meeting and I just wanted to clarify that because that statement could be misconstrued that they did when they didn't.

Mr. Calder: I do understand that. I know the Town Board can take this right in their own hands and disregard whatever we say and that is the way things are and I get that too.

Ms. Scannell: Mr. Calder, what are your feelings on a negative recommendation and the reason for the negative recommendation would be because we have not had the time as a Planning Commission to individually and collectively digest the information.

Mr. Calder: Well, if you are asking for someone to put up a resolution, I don't know, I was just trying to understand it all.

Ms. Scannell: I'm looking for a way to...

Mr. Collins: I think you are putting him on the spot.

Ms. Scannell: We are having a conversation. This is actually how people sometimes have conversations about things.

Mr. Calder: I don't mind it at all. I hate to see us not working together on this and I think the biggest reason that "Inaudible..." this whole amendment that we were not given enough time to do it the right way to serve and do our job the way we are supposed to do it. I don't know where that would have started. Maybe last year. Maybe someone could have said you have something coming and we're going to have something coming up so we could have a chance to have someone sit down and talk to us and go over questions. I don't know. We have done it with other projects.

Ms. Heinel: The best way to address the issue is to put it to the vote. If the majority want to table it so they have time to review it until the next meeting, if that fails, then the next would be to vote yes or no and the Board members can give their reasons for their votes on that and whether that's I haven't had enough time to review it so, no and yes in that frame.

Ms. Scannell: I would like to give everyone the same opportunity that Mr. Calder has had.

Mr. Calder: Absolutely.

Ms. Scannell: Mr. D'Alessandro, do you have any questions for Peter or any comments?

Mr. D'Alessandro: No questions for Peter. I have gone through this thing numerous times and there's a lot of material to go over. I picked up my packet on Friday afternoon and I've gone over these two or three times and made comments that there are certain sections that I don't agree with. Some to me, it almost looks like we're making this very hard for somebody to install a solar system with all these different studies, visual impact studies, acoustical noise studies, wildlife habit studies, glare studies, GIS viewshed studies, distances, visual impacts, where are you going to put 1,500 solar panels without someone seeing it. It's almost impossible.

Just my opinion of it and I have reviewed it several times and I'm not comfortable with giving it a positive recommendation, that's for sure. That's all that I have.

Ms. Scannell: So, what I'm hearing is that you would probably also like to have more time to ask questions?

Mr. D'Alessandro: Yes, absolutely.

Ms. Scannell: Some of the things that you mentioned, visual impact studies, are things that residents in our town have and our town planner and our town board have had to take into consideration with a project as being sited in our town. So, these things are not unheard of they are possibly unheard of to people on this board, to some people on this board, they are heard of to other people on this board, but visual impact studies happen I would say almost all the time with any kind of a project of the magnitude of 20 megawatts.

So, let's see, Mr. Miglucci?

Mr. Miglucci: I have sat in with the EAC and they have had a lot of people come from the state, from individual agencies. This is a mixture of people of different sides of the spectrum, from rural, we have one that actually lives right across the street here and my observation of everything is we need to have something in place to protect us from, how can I say this, one's agenda. It's moving faster than innovation is moving and I have noticed, and I even had had people from the state, actually done things for the state that told me that nuclear the safest energy out there but we're not going to say that because we work for "Inaudible" and I've heard that too.

We needed something to protect us. We can always go in and amend something, but the committee wanted to get something out before a lot of the stuff starts hitting because the Federal are putting all these mandates out there to do this and they want green things and it's moving so fast. If you look at what happened in Germany, it was in today's paper, Germany scrapped the green program because they wanted to be a 100% by 2030 and there is no way. There is no way. They can't do it. They are actually burning coal again.

So, I think this protects us from Monolith that go by the wayside and a lot of people drive to the countryside. I even get on Route 5 and drive from Schenectady all the way to Amsterdam and if you look across the river, Montgomery County, is nothing but silver mountains and it just looks like shit, it really does. I would say, hey, to prevent some kind of trojan horse or something, we have to put something in place.

That is all that I have.

Ms. Scannell: Thank you, Mr. Miglucci. Mr. Signore?

Mr. Signore: I got through half of it. I was out of town all last week and I came in Sunday night and I got through half of this. For me, it would be hard to vote on something that I didn't review or read the other half. However, I do agree with Joe and some of the definitions ambient noise, battery energy storage system, battery management, building, photo voltage system, these with all boundaries, fencing, glare, I think these are legitimate concerns and if you are going to put this solar array in, anybody in the area or even traveling through would have these same concerns.

Other than that fact that I haven't seen the whole thing, but also, correct me if I am wrong, in many cases it gives the town the last say and I like that too. So, if the town, whatever the case may be presented to the town, they do have the last say and I highlighted that in a number of places in the first half of the documentation. I think the report is good, however, I didn't have enough time to read the whole thing. If you don't read it, you really can't make an objective vote on it but what I did read, I'm pretty much okay with it. Like I said, it gives the town the final say as opposed to maybe being something forced on us and then the town, I understand kind of hastily that we got this, but it's a lot better than having something forced on us and then having to change it, but this can, correct me if I'm wrong, this can be amended at any point if we run into something, right? The code can amend this.

Ms. Scannell: The code can be amended after, yes it could be. Absolutely. Like many codes are amending once they go into actual practice and especially something very new.

Mr. Signore: That's my only issue is I got it late and I was out of town and in all honesty, I only read half of it, and I highlighted parts that I thought were pretty good. I think we should be concerned for a lot of definitions and what see and people living in the area. You want a project, that's what you go to do.

Ms. Scannell: Thank you. Mr. Collins?

Mr. Collins: I have questions that I know Peter cannot answer. I've had discussions with him. I would like to go on record to say that I'm a firm believer that, to a degree, a person that has property has the right to do certain things with his property, especially out in the country. Some of that land could have been in their family for generations. They might need it to sustain their livelihood and how they live. I think they have the right if they need to lease a few acres to bring in some income to save their family farm or for him and his wife and children to live a decent lifestyle, I don't think we have the right or the Town Board has the right to deny that person. I always felt that way and I always will. I have talked to a couple of people in the Town Hall, and I will not throw anyone under the bus but basically reading this thing it is basically saying no solar in the Town of Rotterdam. There are so many hoops that you cannot possibly jump through them. Even the fee schedule, which is a big one to me. \$7,000 to the Planning Commission to Town Board can drop it to \$2,500. That has the visual that it be kickbacks all over. Someone comes in and everybody knows lets' only charge them \$2,500 instead of \$7,000. "Inaudible... (Members talking near microphone). Why do you have to buy a 14' bush to put up.

How do you even maintain that? You can't put a solar array within 2.5 miles of another one. You have to send out notices for a mile radius. We never done any of these things. I understand that we need code and I'm all for change and I'm not about to sit here and pass something that I totally disagree with in so many different ways. It's not right. You are forcing it on them. It's not my responsibility to make the Town Board happy. I could care less what the Town Board thinks about me or cares about me. I don't really care what anybody thinks about me. I say what I mean, and I mean what I say. This is absolutely BS as far as I'm concerned. Nobody in their right mind could jump through all these million hoops and get so many variances to make this happen. This blatantly says there will be no solar in the Town of Rotterdam. I think it's totally wrong and I wish the paper would come and interview me and I would show them this thing and break it down and tell them that it's totally wrong. We do not have this much right to stop something from the Town of Rotterdam. That is not what this Planning Commission is supposed to do and nobody on this Planning Commission should have their own agenda to push something. Whether someone takes offense to that, I don't really care but this is blatantly saying there will be no solar in the Town of Rotterdam. No matter how you cut it, that is what it says. One in here also says that the Planning Commission will review these things. Once this project leaves here, we have no control over a project. We have been told that a million times, yet you want someone to do an aerial view for 3, 5 and 10 years. That's absurd. There's so many hoops that you could not possibly jump through them and in a cost-efficient way.

If someone wants to do 20 acres, are you going to charge them \$140,000 to put in for a permit and they might not even get the permit. That is absurd. And then you could come back and say well, we like the guy we're going to give him \$2,500, that's absurd. I mean there are too many loopholes to jump through and like I said you have to put a 14' bush in. That's just nonsense. Who's to say what scenic view is? What I think is a scenic view might not be yours. And then you need a third party to do so many things. It's always adding cost, adding cost to the person doing the project and that's not our job to deter things. It's not our job to tell people what they can and cannot do to this magnitude what they can do to their property to survive. It's not right. Now, maybe people up there are financially stable and have all kinds of money. Everybody says I'm the richest guy in Rotterdam and I'm not, but I don't know people's financial responsibilities or how they are financially and it's not my, I don't think that I have the right to stop somebody from supporting their family or their family farm for generations because somebody doesn't like it. You know what, the person that doesn't like it always has the opportunity to sell their house and move. I don't like apartments on Curry Road. I could have sold my house and moved and I choose not to. Everybody has choices. If people don't like this, they can move.

My cousin had a barn on Spawn Road, and I had a friend that bought a house there and he was very wealthy, and he goes to tell him to tear it down. I said that barn has been there a lot longer than you. It's zoned for it, and he can keep the barn. People come in and buy property and they expect everybody to bend rules because they have few bucks because they don't want their little piece of heaven disrupted. That's progress and solar is here to stay and there isn't a thing in here that says well this should override the State. The State has the final say and the Federal has over the State. It's as simple as that. It's a pecking order and the Town of Rotterdam is on the bottom of the pecking order. You got the "Inaudible" that says look at the agricultural map from the County and I've never seen an agricultural map, there's too many things that I don't understand and too many questions that I need to be answered so, I can truthfully vote on this.

I'm not against changing the zoning but I'm not going to be rushed and crammed down my throat and make a decision tonight. That's all that I have.

Ms. Scannell: Thank you, Clark. It sounds like to a certain extent that you have already made up your mind.

Mr. Collins: I want to table it. One more thing that I want to go on the record, I had a heated discussion with the Chairlady the other night and it was a heated one and she said to me, well maybe you should do your research and look at all the other zones to see what they do. I would like to do that but I would also like a copy of every municipality where hunt and pecked and took certain things out that would stop solar so I can read their own code and understand it fully and not giving me "Inaudible" of \$7,000, 2.5 miles, a mile for this, 14' bushes. I want to know where you got it from so that I can read the whole thing because it's probably, it's like when I was President of the Union, they would take two (2) sentences out of a

paragraph and lay their hat on it. You have to read the whole thing to understand where it came from. You were the one that told me that I should research it.

Ms. Scannell: I don't disagree with that. I do think that we should all do our research, but this is not a surprise that this was coming.

Mr. Collins: It was a 35-page surprise to me.

Ms. Scannell: It sounds like you had a pretty clear understanding of a lot of it.

Mr. Collins: I read it three times.

Ms. Scannell: Then you had plenty of time to read it.

Mr. Collins: But I want to research the other ones.

Ms. Scannell: Mrs. Flansburg?

Mrs. Flansburg: So, I read the whole thing because that's our job, but I can't answer the questions that are in here. I wrote a whole bunch of notes, and I am all over the place. Off to the side I wrote are these reasonable expectations, who is the one that would be overseeing to determine what is acceptable whether it's the glare, the noise, the paint color, whether or not we can charge \$2,500 or \$7,000. The thing that you just mentioned was 2,660 acres, I'm horrible at math and that is why I married a math teacher, their permit application in this town would have been \$18.6 million plus. I feel that the permit process isn't supposed to be cost prohibitive if it's supposed to be relative to something. I have no idea, but I would like to know what other communities look like and if they have already gone through all of this. Because I don't know how, if it were ever to get through us, which I don't think anyone would be able to make it through to the other side of this program with all of the third-party studies that needs to be done, TDE, renderings at five (5) and 10 years. It does seem anti.

But then we get here there is an upcoming project that if we don't have something we are going to be in trouble, something is going to negatively impact us. So, I feel like I've done my due diligence with reading my packet, but I don't have the ability to get sample local laws from other communities that have done theirs. That would be helpful.

Just from reading it, I feel like, although we are not saying we don't want it, we're saying we're going to make it really expensive, a long process and require you to get all of this outside help to do it. So, that is kind of where I am looking for other municipalities and it looks like we are opposed to solar.

Mr. Comenzo: I have two (2) comments. Number 1, obviously whatever gets adopted by the Town Board in whatever way, shape or form, the Planning Commission is the one that implements that document. So, I understand in terms of concern of the Planning Commission because there is a separate body that the Town Board created that went through this long process with the TDE and put together this document that is 35 pages long. The second thing is that we do have a TDE that was assigned to work on this solar code and you guys are familiar with him and he is very familiar with the Town code and he is very familiar with codes from other municipalities. I don't know if it would be worth it to have some type of a working session or have him try to answer your questions. Because you may be saying this is outrageous, but he may say it is just like here and here and here or he may have an opinion on something that you may possibly, he would be able to answer some of your questions, I guess. I don't have enough familiarity with solar code in other communities. I obviously don't design and site these but not only are the TDE; he's assisting the EAC, but he's done solar projects, and he did one in Town that turned out to be one of the better ones that we've had. We've also had some that are not so good.

**Town of Rotterdam
Code Amendment**

The other potential option, I know there is concern about time limits and everything else and the Town Board had started the process. There is nothing to say the report and recommendation can't be made, it has to be made before the decision. It does not have to be before the public hearing. There is only one meeting on the Town Board and one meeting on the Planning Commission in June. Unfortunately, the Town Board public hearing would be before your next meeting.

Ms. Scannell: So, can we have a special meeting?

Mr. Comenzo: The Town Board meets on June 12th and the Planning Commission regularly scheduled meeting is June 18th. There is a month between now and your next meeting. The Town Board could always have a special meeting and I can't speak for the Town Board. They have one meeting in June, one in July, and one in August. Like you said, it is an important piece of legislation. You certainly do not want to get to the end of the process and have everyone upset with the way things worked out.

Ms. Scannell: Peter, just so I can understand this clearly. Are you saying that if we were to table it to our next meeting which is June 18th...

Mr. Comenzo: That would be after the Town Board meeting. The code does not say you have to have a report and recommendation before the public hearing. We tend to like to have that just because the Town Board has something to chew on. Whether or not they take action after a public hearing, there may be a bunch of people that come to the public hearing, you know most times when we have a public hearing you do not necessarily make a decision that night. Some of the easy ones, a lot of times they will do that but something that may be a little more...

Ms. Heinel: This is a dense body of code; it might go beyond one public hearing night. If we don't have a recommendation from the Planning Commission then it's unlikely to take any action on the first June meeting after the public hearing. They will probably put it out to the next meeting for the report and recommendation to come in as well.

Mr. Collins: I just wanted to know if we do have a workshop with the TDE, how do we go about, if we don't like something in here, like say the fee schedule...

Ms. Heinel: Then that goes in your report and recommendation.

Mr. Comenzo: You have no approval authority over the code. You can make your comments, but the Town Board would just have to take those into consideration but it's really up to the Town Board...

Ms. Heinel: You put that in your report and recommendation and if you have a suggestion of what you want it to look like then you would include that as well. It's a report and recommendation. We've done relatively simple report and recommendations for prior projects, but I have a feeling that this one is going to include a lot more comments and a lot more from different individual members and we can always structure the report and recommendation that way. Member so and so says this, member so and so says this, member so and so says this and we can individualize it for the members to give their individual comments on that but it would require you guys to provide something in writing to us so that we can accurately capture your comments and suggestions are going to be.

Mr. Calder: Prior to having a TDE come in or after?

Ms. Heinel: For the final. Whatever your vote will be, we can include all of your comments and recommendations and otherwise individually in that report and recommendation with what the final was.

Mr. Calder: You may have that.

Ms. Scannell: I think we also could have an opportunity for the EAC to make themselves available to the Planning Commission so, that any questions of the committee could be asked as a whole.

Mr. Comenzo: That makes sense.

Ms. Heinel: Having both the TDE and the EAC here would probably be beneficial.

Mr. Collins: I would just like some explanation on how they came upon this process of certain things that I think are to the extreme. That is all that I'm asking for.

Ms. Scannell: I'm allowing that opportunity. I'm thinking it's a great idea and I suggested it to you last night. I would urge every single member of the Planning Commission to familiarize yourself with the Office of Renewable Energy Citing Regulations, which is where the committee looked for a lot of examples. I will make sure that Patty sends a copy of what Collier's gave and any other copies of solar code that we have PDFs of, there's probably 20 to 25 of them that you will be able to read through to see where the EAC found information.

I would like to point out a couple of things. With regard to the public benefit fee, so, the hoops that you feel a developer has to jump through with regards to a public benefit fee, almost every community has a public benefit fee. I think Glenville was the first one to come out with one locally. They called it Solar for Parks. It was a \$7,000 an acre fee which is identical to ours. Theirs originally came out with this, help me with this...

Ms. Heinel: Let me think, we were working on it in 2018, and I think we either adopted it at the end of 2018, beginning of 2019 or it might have been earlier on in 2019.

Ms. Scannell: We didn't even adjust for inflation. We went with what everybody else was doing.

Ms. Heinel: I will point out that there is a difference between Glenville and this particular public benefit fee that I can personally speak too...

Ms. Scannell: But it got changed. It went in with the change.

Ms. Heinel: Not that, not what the funds are designated towards. The difference how the public benefit fee was calculated for Glenville, and I wasn't present for how it was calculated here, but they knew when they drafted the code that it was only going to mean that there were four (4) parcels available for development for large scale solar in the Town. Those were going to be the four (4) targeted developments. The per acre fee was designed to be hefty but not prohibitive hefty. So, in terms was there discussion related to how much money that fee was going to be based off the acreage of these parcels to make it reasonable and not prohibitively expensive, yes.

Ms. Scannell: I think when the EAC was looking at the parcels of land that were taken into consideration, they made a decision that a project that was generating \$60 million over the next 20 years and that is not an opinion, that is an actual fact based on the bid application award that this particular company when we were looking at it was given and our next door neighbor, Princetown, who has a per square inch of solar panel fee that if you do the math on it, works out to be about \$7,000 an acre. Our neighbors in Duanesburg and other communities as well. You would be able to see that that fee didn't just come out of nowhere.

The other consideration that was made with the public benefit fee was last year when the Governor's budget was passed, they changed the way that pilot plans were negotiated. They changed the methodology, and a lot of the districts didn't even realize they were impacted until this year. Peter and I had a conversation about it today. School districts that

thought they were getting a certain amount of money which is what they can do, aren't getting the money that they were supposed to be getting. Public benefit fees are not unusual in solar code, and I think it would be good for you guys to all take a look at that.

Again, I can make sure you get a copy of the OAR's Regulations. I can tell you that the residents of Rotterdam, right now, that are within a one-mile radius of a proposed project, have already been provided with a 60-day notice of intent to apply. Those same people have all received Well Surveys that they are asked by the developer to please fill out and get back to them. It's not to protect the resident, it's to protect the developer. I know, personally that many neighbors have been concerned about the expense of the burden that they would have to bear to get their wells tested properly. Upwards of \$550 and \$750. So, when we talk about the rights of a property owner, we also have to look at the rights of adjoining land owners and when we agree that someone is entitled to use their own property in a manner that maximizes their own enjoyment, their own enjoyment should not be interfering with or disturbing the rights of adjoining land owners and that is why this code is comprehensive.

There are property values to be taken into consideration. People, residents are concerned about their wells. They are concerned about the visual impact. They are concerned about the noise from inverters. These are very, very real concerns that residents have and it's the job of the Town to make sure that not just the property owner has rights, but nonparticipating parties also have rights. I printed this because I think it says a lot about where folks come from and I'm happy to pass it around and it shows how everybody gets an equal piece and everyone can exercise their own freedoms but when your freedoms are exercised and they cause an injustice to other people that is not fair and we have a responsibility as a Town and the EAC took that responsibility very seriously when we are looking at things to protect the residents.

Mr. Calder: I just learned things that I didn't know. I learned from our attorney, got some from you and got some information from Peter. Maybe I could learn a lot from somebody else if someone would sit down and talk to us. I don't mind taking my time to come back in here to sit down and hear from the TDE or the committee that is working on this thing. It sounds like a lot of letters went out and neighbors were talked to, but we didn't know about the project.

Ms. Scannell: I don't disagree with you.

Mr. Calder: I picked this up Sunday and looked at it and knew nothing about it. You have answered a lot of questions and I appreciate that. But there are probably some more questions in here. I'm not making a big fuss here. Maybe we can...

Mr. Comenzo: Let's move forward and make a decision tonight as to how..... we can't guarantee that the Town Board would be willing to have an additional meeting in June, but you have the whole Planning Commission here and what do you want to do. I would believe that some of the folks from the EAC would make themselves available to answer questions. We could probably schedule something with the TDE, who has more of the technical expertise. Out of anybody, he's the one that looking at these codes and designing them.

Mr. Calder: This may not be an issue or a problem at all. We may be making something out of this that isn't there.

Mr. Collins: I just don't understand some of this and I would like to know the reason why. I would like to make a motion to table this and if possible, if Peter could work on getting a workshop or move forward for the Planning Commission to get their questions answered and if we have to have a special meeting, I'm sure we can arrange before the Town so that we can make an educated decision. I hope to table it and move forward with more informational meetings with the TDE or the EAC to answer some of our questions. I'm not against solar but there are some of these things that I don't truly understand. I know I'm not the smartest one at this table. I will gladly admit that. There are some things that I don't understand, and I think everybody, like Wayne says, has the right to some answers before we make such an impact

on the Town. That is all that I'm saying. I would like to make a motion to table this and possibly set up a special meeting.

Mr. Calder: I'll second that motion.

Ms. Scannell: Lisa, can you call the roll.

Ms. Gallo: Mr. Collins?

Mr. Collins: Yes.

Ms. Gallo: Mrs. Flansburg?

Mrs. Flansburg: Yes.

Ms. Gallo: Mr. D'Alessandro?

Mr. D'Alessandro: Yes.

Ms. Gallo: Mr. Calder?

Mr. Calder: Yes.

Ms. Gallo: Mr. Signore?

Mr. Signore: Yes.

Ms. Gallo: Mr. Miglucchi?

Mr. Miglucchi: Yes.

Ms. Gallo: Ms. Scannell?

Ms. Scannell: Yes.

I would also like to please go on the record saying that I really do hope that all of us put in all of the effort that this volunteer committee has put in over the course of 18 months. I would also like to say while I am happy to answer your questions because I was part of the committee, I was part of the committee. There are plenty of people on the committee that you can ask questions of.

Mr. Collins: Not a problem. Get the committee here and we'll ask questions or have the TDE. That's all that I'm asking.

Ms. Scannell: I would like to please make sure that, Peter, we get a date, and we can check out with Dan when he is available and I would like everybody to please make sure, I will draft some kind of a checklist that you have your questions prepared. I will make sure that you get all the documents that you require because Dan's time is valuable, and we have to pay him, and I want to make sure we get the biggest bang for our buck. If there are codes outside of the Collier's code and the codes that you would like to use, please let us know and I can try to get you copies of those in advance of the meeting. When would you like to schedule this for?

Mr. Comenzo: Does anybody have availability for the first and second week of June? Is anybody out of town? As you get a little further into June.

Mrs. Flansburg: Does it behoove us to try to fit in before the Town Board public hearing?

Mr. Comenzo: I would have to talk to the Town Board because I don't know who is going to show up at the public hearing and the Town Board doesn't. Somebody may give a 30-page document in terms of comments on the code. I don't know if the Town Board is going to be ready to make a decision on that evening. I think that something that is this important they may decide to conduct a special meeting later in the month instead of waiting until their July meeting. I do think there is time between now and the next Planning Commission meeting to meet. Like I said, I don't know, I know the public hearing is scheduled for June 12th it is the Town Board public hearing.

Mr. Collins: The second week is better for me just because I have to spend two (2) days...

Mr. Comenzo: The next meeting after that is July 10th. That being said, I'm sure everybody will have questions and comments. You have to realize the EAC worked on this for a year and half and there is going to be things in there you don't like, things in there that you do like, it's not going to be okay we are going to rewrite the code. It basically has been written by the EAC and presented to the Town Board because that is what they were tasked with doing. So, it's not something I composed, and it's made up of members of the community. It's a whole separate group that was formed just for this task. That does carry some weight in terms of the Town Board. They are not here tonight to present it to you, but I'm here to present it. They spent a lot of time and effort putting this together so there are things in there that you are probably not going to agree with, but you can say as a whole, I support this document, or I don't. You can get some of your questions answers.

Ms. Scannell: I also think it would be valuable and I understand that people all have very busy schedules, even if you don't typically attend a Town Board meeting, I would urge everyone to take advantage of technology and watch the public hearing on June 12th. I think it would be valuable to all of us to listen to the voice of the residents since this is just a report and recommendation, we're not really hearing from anybody, I think it would be valuable.

Ms. Scannell: There is a website that I will also make sure that I send to everyone that you can go to for the Office of the Renewable Energy citing and you can see all the documents that ELP Rotterdam Solar LLC has provided to the state.

Our next meeting is June 18th.

I would entertain a motion to adjourn the meeting.

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

Mrs. Flansburg: I'll second it.

Ms. Scannell: All in favor.

Planning Commission Members: I.

Meeting adjourned at 8:40 p.m.

Respectfully Submitted,

Marlo L. Carter
Planning Commission Secretary



Town of Rotterdam
Office of the Planning Commission

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

Telephone (518) 355-7575
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Resolution Number PC31-2024

Moved by Mr. Collins seconded by Mr. Calder

Applicant: Town of Rotterdam


Applicant: Town of Rotterdam


Project Location: Town of Rotterdam

Proposed Project: Report and Recommendation to the Town Board to amend Chapter 270, entitled "Zoning" to repeal Local Law #1 of the Year 2017 entitled Solar Energy Facilities with associated fees related to "green" energy and adopt an updated Solar Energy Facilities code.

WHEREAS, the Rotterdam Planning Commission made a motion to **TABLE** this issue pending workshop/possible special Planning Commission meeting; **NOW:**

IT IS HEREBY RESOLVED THAT, on this day, Tuesday, May 21, 2024, the Rotterdam Planning Commission hereby **TABLED** this issue pending workshop/possible special Planning Commission meeting.


Peter J. Comenzo
Senior Planner


Kimberly Ricker Scannell
Planning Commission Chairman