

**Town of Rotterdam  
Planning Commission  
November 15, 2016**

*Approval of the Summary of Minutes November 1, 2016*

1. **Town of Rotterdam** – Report and Recommendation to the Town Board for adoption of a Solar Energy Facilities Ordinance the Town Zoning Code as prepared by the Rotterdam Steering Committee.
2. **RM Lent Properties, LLC - Mariaville Road & Burdeck Street.** Final Site Plan/Three (3) Lot Subdivision Public Hearing Review Lot 1 = ±1.97 acres with RM Lent Excavating business, Lot 2 = ±2.25 acres with proposed 30 one (1) bedroom apartments, Lot 3 = ±1.71 acres (vacant). Engineer: ABD Engineers, LLP.
3. **31 Opus Rotterdam LLC (Tomra) – 31 Opus Boulevard.** Final Site Plan review to allow for the addition of two (2) truck bays on a ±36,400 square foot recycling facility on a ± 4.33 acre parcel. Engineer: ABD Engineers, LLP.

**Waiver(s)**

1. **One-Eleven Boutique – 93 W. Campbell Road.** The applicant requests a Waiver of Site Plan review to operate a women’s apparel retail store in tenant space C-108 (2,930 square feet), formerly Aeropostale, in ViaPort Rotterdam.
2. **Dearborn Land Investment, LLC – 950 Curry Road.** The applicant is seeking Site Plan Modifications to the 13,225 square foot CVS Pharmacy with associated drive-thru window on a ±1.75 acre parcel approved on November 5, 2015 to allow for minor sidewalk revisions along Lawndale Avenue.
3. **Sports Zone – 93 W. Campbell Road.** The applicant requests a Waiver of Site plan review to operate a retail sports store, Sport Zone, in tenant space G-116 (1,500 square feet), in ViaPort Rotterdam Mall.

**DPW Comments**  
**November 15, 2016**

1. **Town of Rotterdam** – Report and Recommendation to the Town Board for adoption of a Solar Energy Facilities Ordinance the Town Zoning Code as prepared by the Rotterdam Steering Committee.
  1. Draft ordinance and Solar Energy Facilities report and recommendation was prepared by the Rotterdam Steering Committee and circulated to Planning Commission members for review and recommendation to the Town Board.

# Town of Rotterdam Steering Committee

TOWN OF ROTTERDAM  
1100 Sunrise Boulevard  
Rotterdam, New York 12306

 **DRAFT**

## RESOLUTION

At the regularly scheduled public meeting of the Town of Rotterdam Steering Committee, held at the John F. Kirvin Government Center, 1100 Sunrise Boulevard, Rotterdam, New York, on Monday, September 26, 2016, at 6:30 p.m., the following resolution was duly adopted:

**WHEREAS**, the Town of Rotterdam Steering Committee was formed on February 10, 2016 by Resolution No. 61.16 of the Town Board of the Town of Rotterdam; and

**WHEREAS**, the Town of Rotterdam Steering Committee, in consultation with the Planning/Zoning Department, has determined that the current Town Code of the Town of Rotterdam fails to adequately address solar energy technologies as a land use in the Town; and

**WHEREAS**, the Town of Rotterdam Steering Committee has investigated and discussed various issues that are presented by solar energy facilities and the Town Code's lack of any provisions with respect thereto; and

**WHEREAS**, the Town of Rotterdam Steering Committee finds that there has been an increase over the last several years in the number of homeowners and businesses that have installed solar energy facilities to supply energy to meet their own on-site energy consumption needs (hereinafter, "accessory use" scale solar energy systems); and

**WHEREAS**, the Town of Rotterdam Steering Committee finds that the Town's treatment of such "accessory use" scale solar energy systems as accessory uses/structures, while properly permitting such facilities to be installed, nonetheless fails to address some of the land use nuances presented by various types of such facilities; and

**WHEREAS**, the Town of Rotterdam Steering Committee finds that the Town Code does not currently permit development of solar facilities designed to generate energy primarily for off-site sales and distribution (hereinafter, "solar farm" scale solar energy systems); and

**WHEREAS**, the Town of Rotterdam Steering Committee finds that there has been an increase in recent years in interest on the part of property owners and solar development companies to develop such "solar farm" scale solar energy systems in the Town of Rotterdam;

**WHEREAS**, the Town of Rotterdam Steering Committee finds that property owners seeking to derive economic value from their properties through development of such "solar farm" scale solar energy systems should be able to do so as long as such development is appropriate in the applicable zoning district, does not adversely affect the community or surrounding properties, and does not present an unreasonable safety risk; and

**WHEREAS**, the Town of Rotterdam Steering Committee finds that the Town's A (Agricultural), I-1 (Light Industrial), and I-2 (Heavy Industrial) zoning districts are areas in which "solar farm" scale solar energy systems would be appropriate, provided that the Town has adequate review and approval authority over such developments to protect the health, safety, and general welfare of the community; and

**WHEREAS**, the Town of Rotterdam Steering Committee finds that the special use permit and site plan review and approval processes, conducted by the Planning Board, provide sufficient oversight authority to ensure that "solar farm" scale solar energy systems are designed and developed in a manner that is protective of the community, provided that additional documentation, information, and review processes and standards are required in connection with such developments; and

**WHEREAS**, after reviewing various local laws adopted in other municipalities throughout the State, and in consultation with the Planning/Zoning Department and the Building Department of the Town of Rotterdam, the Rotterdam Steering Committee has prepared a draft local law

designed to address current deficiencies in the Town Code with respect to both "accessory use" scale solar energy systems and "solar farm" scale solar energy systems; and

**WHEREAS**, the Town of Rotterdam Steering Committee has also investigated the property and school tax implications of solar energy facility development in the Town and has found that Section 487 of the New York Real Property Tax Law generally provides a fifteen year tax exemption for solar energy facilities to the extent of the value added by such facilities; and

**WHEREAS**, the Town of Rotterdam Steering Committee has determined that the Town should seek to generate revenue through a Payment in Lieu of Taxes Agreement with the owners/developers of any "solar farm" scale solar energy systems, a method authorized under Section 487 of the New York State Real Property Tax Law, while maintaining the exemption for "accessory use" scale solar energy systems; and

**WHEREAS**, the Town of Rotterdam Steering Committee, following its investigation, has prepared a written report and recommendation to the Town Board of the Town of Rotterdam; and

**WHEREAS**, the Town of Rotterdam Steering Committee desires to forward its written report and recommendation to the Town Board for consideration, to recommend that the Town Board consider enactment of the draft local law relating to solar energy facilities prepared by the Town of Rotterdam Steering Committee, and that the Town seek to generate tax revenue from "solar farm" scale solar energy systems in a manner authorized by law, while maintaining the exemption for "accessory use" scale solar energy systems;

**NOW, THEREFORE**, upon motion of Member Tingley, seconded by Member Ahl,

**BE IT RESOLVED BY THE TOWN OF ROTTERDAM STEERING COMMITTEE**

**AS FOLLOWS:**

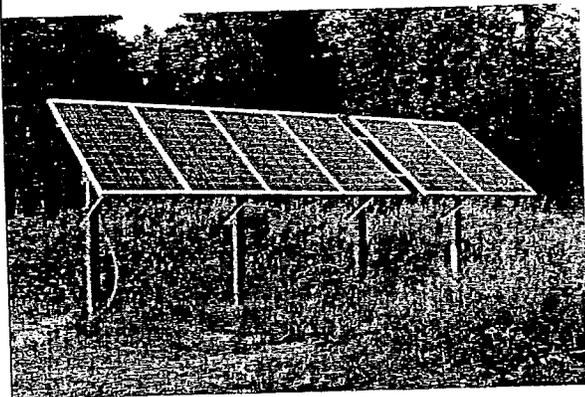
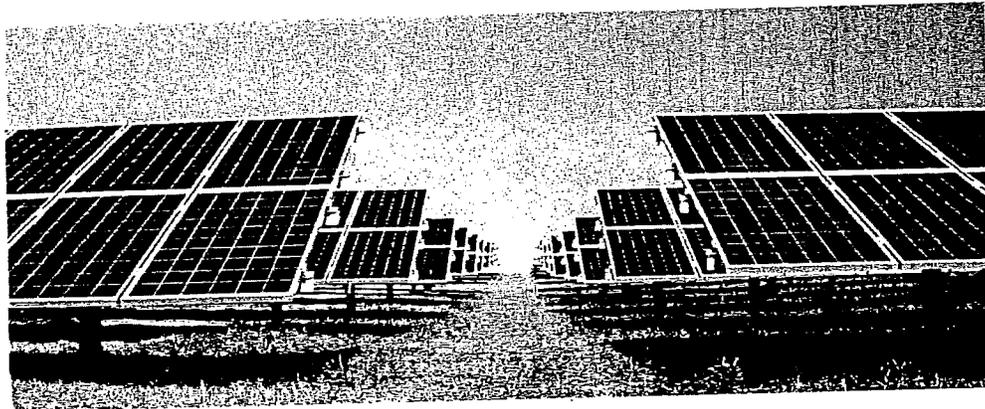
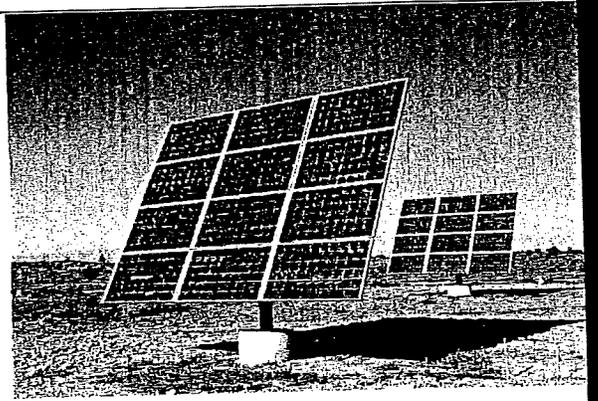
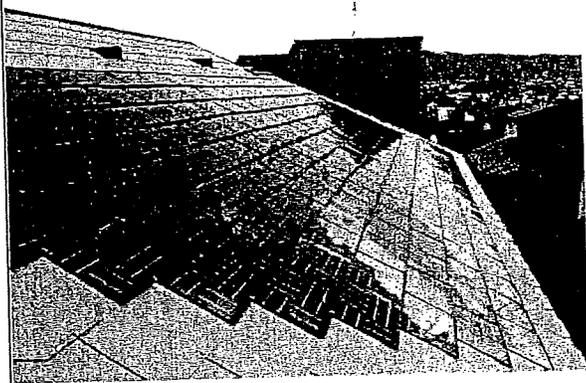
1. The Town of Rotterdam Steering Committee hereby adopts as its written report and recommendation the document annexed hereto entitled, "Solar Energy Facilities:

Report and Recommendation to the Town Board of the Town of Rotterdam”, dated September 26, 2016, inclusive of Appendix A thereto.

2. The Town of Rotterdam Steering Committee hereby authorizes and directs the Chairman of the Rotterdam Steering Committee to transmit a copy of the annexed report and recommendation, along with its appendix, and along with a copy of this written resolution, to the Town Board of the Town of Rotterdam, the Planning Board of the Town of Rotterdam, the Zoning Board of Appeals of the Town of Rotterdam, the Department of Public Works of the Town of Rotterdam, the Town Assessor of the Town of Rotterdam, and the Town Clerk of the Town of Rotterdam.
3. In the event the Town Board of the Town of Rotterdam requests a presentation of the Town of Rotterdam Steering Committee’s report and recommendation and/or the appendix thereto, the Town of Rotterdam Steering Committee hereby authorizes and directs the Chairman of the Town of Rotterdam Steering Committee to present the findings of the annexed report and recommendation and the appendix thereto to the Town Board of the Town of Rotterdam.
4. This resolution shall become effective September 26, 2016.

Dated: September 26, 2016  
Rotterdam, New York

<u>Name</u>	<u>Aye</u>	<u>No</u>	<u>Abstain</u>
David Ahl, Member	X		
Kathy Curtis, Member (absent)			
Milan Jackson, Member	X		
Joseph Malatesta, Member (absent)			
Jonathon Tingley, Chairman	X		



# **SOLAR ENERGY FACILITIES**

## **REPORT AND RECOMMENDATION TO THE TOWN BOARD OF THE TOWN OF ROTTERDAM**

Prepared by the Town of Rotterdam Steering Committee

September 26, 2016

# SOLAR ENERGY FACILITIES

## REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

Due to a variety of factors, including declining costs, increasingly efficient technology, and robust government incentives, interest in both small and large scale solar energy systems in the Town of Rotterdam has increased dramatically over the last few years. The Rotterdam Steering Committee recommends that the Town Board enact a local law to address solar energy systems; that, in the case of small scale solar energy systems designed to meet only on-site energy needs, the Town maintain the currently effective state law tax exemption; and that, in the case of large scale solar energy systems designed to supply energy off-site, the Town seek to generate revenue from such systems through entry into a Payment in Lieu of Taxes Agreement with the developer/owner as authorized under state law.

### EXISTING LAW

The existing Town of Rotterdam Town Code, including its zoning code, does not include any provision specifically permitting solar energy generation facilities, regardless of whether such facilities would generate energy for on-site consumption only or for off-site sales and distribution.

For homeowners and existing businesses only seeking to generate energy for their on-site use, this scenario has not presented a substantial obstacle to installing small scale solar energy facilities. The Town of Rotterdam has determined for such applications—where the equipment is installed to produce energy for on-site consumption—that such small scale solar energy facilities constitute “accessory uses” under the Town’s zoning code. This treatment, while allowing such equipment to be installed, still fails to address some of the land use issues that are particular to solar energy equipment.

Larger scale solar energy facilities, designed to produce energy for off-site sales and distribution, are not afforded the same treatment as these smaller systems. Under the Town zoning code, such larger scale solar energy facilities do not constitute “accessory uses”. Additionally, none of the existing

AMERICAN SOLAR  
PLANNING  
ASSOCIATION

*“From a more practical standpoint, local governments across the country have been caught flat-footed by proposals for new solar farms or by a sharp uptick in permit applications for new rooftop solar installations.”*  
Planning for Solar Energy Briefing Papers, at 4 (2013).

Solar Energy  
Industries  
Association

**New York:**  
242 MW in 2015  
Rank: 7th in U.S.

**Nation:**  
400% increase in  
non-residential  
installations since  
2009

zoning districts list among their permitted uses or special permit uses these types of larger scale solar energy facilities. Accordingly, there is currently no mechanism in place under the existing Town of Rotterdam Town Code for the review or approval of proposed solar energy facilities that would supply energy for off-site sales and distribution.

## **NEED FOR LEGISLATION**

According to the Solar Energy Industries Association, a national trade association of the United States solar industry, New York State installed 242 Megawatts (MW) of solar electric capacity in 2015, ranking it seventh in the nation. Installed solar capacity in New York grew by more than 65% over the prior year. Since 2010, the prices of installed solar photovoltaic systems have dropped 66%. Nationally, residential solar installations are estimated to have increased solar energy MW capacity by more than 200% since 2014, and non-residential solar installations are estimated to have increased solar energy MW capacity by more than 400% since 2009. These dramatic increases in solar installations, both residential and non-residential, appear to be a product of an increased societal desire to harness and use renewable energy, steadily falling prices of solar energy equipment and systems, increasingly efficient technology, and significant government incentive programs at both the state and federal level.

Over the past several years, the Town of Rotterdam has received an increasing number of applications from homeowners and small businesses seeking to install small scale solar energy systems for purposes of meeting their own energy needs. As noted above, the nature of such systems is such that they are permissible as accessory uses serving an existing principal use. The treatment of these systems generically as accessory uses, without provisions specifically applicable to solar energy systems, however, gives rise to unnecessary administrative difficulty in reviewing applications and an inability to impose safeguards that may be necessary to further the policies of the zoning code and protect the health, safety, and general welfare of the residents.

Varying types of solar energy systems present different land use issues which are not adequately addressed in the existing Zoning Code. For instance, solar collectors installed on the roof of a single family home will typically present fewer issues than will pole-mounted, freestanding solar collectors constructed on the same lot. Pole-mounted, freestanding solar collectors, while still servicing the home, might be located "too close" to a neighboring lot, or might be "too tall", or might be constructed on a lot that is simply "too small". Roof mounted solar collectors, on the other hand, are installed directly on the building and are therefore less likely to present these issues. Similarly, as solar energy technology advances, it is becoming more and more common that some of the building materials that comprise a structure—whether it be the actual roofing material, window materials, or façade materials—have solar energy collection properties. Such building integrated photovoltaic systems present fewer off-site impacts than both pole-mounted, freestanding solar collectors and more traditional roof mounted solar collectors.

Additionally, a business may require a much larger number of solar collectors than a single family home in order to meet its energy needs. This could give rise to a large portion of any given property being devoted to solar energy generation, while still being considered merely an "accessory use". This issue imposes limitations on both the property owner's ability to meet its energy needs through installation of

an accessory use or structure, as well as on the Town of Rotterdam's ability to adequately regulate the size, location, and number of solar collectors.

In addition to accessory-use type installation applications, the Town of Rotterdam has also received an increasing number of inquiries from solar energy development companies and owners of property located within the Town concerning possible development of larger scale solar energy facilities, which would be designed to produce energy primarily for off-site sales and distribution. As noted above, the Town of Rotterdam Town Code does not currently provide a mechanism for reviewing or approving such larger scale solar energy facilities. This inhibits the ability of property owners within the Town to put to economically beneficial use large areas of their land, which may currently sit idle or which may have been used for a prior use that is no longer economically feasible. Additionally, large scale solar energy facilities are often considered one of the most ideal beneficial uses for properties that have previously been contaminated. The lack of a mechanism in the Town Code to authorize large scale solar facilities presents an obstacle to putting contaminated properties to a beneficial use, which could lead to contaminated properties sitting vacant and unused for longer periods of time. Finally, the lack of any mechanism to review and approve large scale solar energy facilities in the Town inhibits this community's ability to generate and use a readily available renewable energy source, in lieu of energy produced from other, less sustainable resources, such as fossil fuels.

The American Planning Association aptly summarized the problem of communities not being prepared to address solar energy facilities:

"While some communities have recognized the potential of solar energy resources to help them save money and improve the environment, many more have yet to do so. As a result, this important energy resources goes untapped, denying residents the ability to lower their energy bills and reduce demands on fossil fuel usage. From a more practical standpoint, local governments across the country have been caught flat-footed by proposals for new solar farms or by a sharp uptick in permit applications for new rooftop solar installations. A conspicuous silence on the part of local policies, plans, and regulations on the topic of solar energy use constitutes a significant barrier to adoption and implementation of these technologies." American Planning Association, Planning for Solar Energy Briefing Papers, at 4 (2013).

In light of these facts, the Rotterdam Steering Committee, in consultation with the Town of Rotterdam Planning/Zoning Department and Town of Rotterdam Building Department, determined to investigate potential legislative approaches to addressing solar energy facilities.

### **ROTTERDAM STEERING COMMITTEE PROCESS**

The Rotterdam Steering Committee was formed by Resolution No. 61.16, adopted by the Town Board on February 10, 2016. Shortly after the Committee was formed, Planning/Zoning Department Senior Planner, Peter Comenzo, reported on a number of land use issues facing the Town of Rotterdam, one of which included the increasing volume of small scale solar facility applications and the increasing number of inquiries with respect to development of large scale solar facilities in the Town. At its March 28, 2016 meeting, the Committee further discussed the lack of a solar energy facility law in the Town

and determined to investigate how solar facilities are regulated in other municipalities throughout New York for possible consideration of drafting a local law or ordinance for consideration by the Town Board. The Committee thereafter investigated, discussed, and analyzed solar facility regulations at its May 10, 2016, June 27, 2016, July 25, 2016, and August 22, 2016 meetings.

During the course of its work, the Committee reviewed sixteen different solar ordinances or local laws that had been enacted in municipalities throughout New York State. The scope of regulations varied greatly among the different laws, with some providing for only building permit review for all types of solar installations; some providing for much greater regulatory scrutiny for all types of solar installations; and some providing for an increasing regulatory scheme as the size or intensity of the solar installation increased. The Committee also discussed the differing types of solar installations, including building integrated photovoltaic systems, roof-mounted (both frame and flush) systems, pole-mounted/freestanding systems, and large scale "solar farms", along with some of the particular land use issues associated with each type. At the Committee's June 27, 2016 meeting, a representative of SunEdison provided information concerning the state's declining incentive block structure for solar facilities, approaches to decommissioning and financial security, the manner by which the New York State Energy Research & Development Authority ("NYSERDA") delineates between different types of systems, and various specifications of solar facilities.

Following the Committee's review of various types of solar regulatory schemes and its investigation and discussions concerning various types of solar facilities, the Committee prepared and reviewed an initial draft of a local law at its July 25, 2016 meeting. The initial draft was intended to be an addition of a new Chapter to the Town Code, separate from the Zoning Code, in order to be consistent with the manner by which the Town addressed wind energy facilities. Following further consultation with the Building Department, the Committee determined that a separate Chapter addressing only solar facilities could lead to administrative difficulties and confusion by members of the public. Accordingly, the Committee modified its approach by gearing the draft local law to integrate its provisions directly into the existing Zoning Code. The Committee collectively and in consultation with the Planning/Zoning Department and the Building Department extensively revised the draft local law over the course of two months. On September 26, 2016, the Committee adopted a resolution to forward the draft local law, along with this report, to the Town Board, with the recommendation that the Town Board enact the local law.

## **SUMMARY OF DRAFT LOCAL LAW**

The draft local law is annexed hereto as *Appendix A*. The following is a summary of its structure and its provisions.

The draft local law is intended to constitute an amendment to the Chapter 270 – Zoning of the Town of Rotterdam Town Code. The draft local law distinguishes between (i) "small scale solar" energy systems, which are systems designed to only produce enough energy to meet the demands of the particular lot on which the system is installed, and (ii) solar farms or solar power plants, which are systems designed to produce electricity primarily for wholesale or retail sales or for off-site consumption.

Sections 1 and 2 of the draft local law provide the title and the purpose and intent behind the local law.

Section 3 of the draft local law provides various definitions of terms relating to, among other things, the various types of solar energy systems. This section also provides for the distinction between small scale solar energy systems and solar farms/solar power plant primarily by whether the energy generated is intended to meet on-site energy needs or instead to be sole or otherwise distributed off-site.

Section 4 of the draft local law provides for solar-specific regulations to govern, where applicable, in the case of inconsistency with provisions of the Zoning Code governing accessory uses/structures.

Sections 5, 6 and 7 of the draft local law authorizes solar farms and solar power plants as a special permit use in the A (Agricultural), I-1 (Light Industrial), and I-2 (Heavy Industrial) zoning districts.

Section 8 of the draft local law provides for solar-specific regulations to govern, where applicable, in the case of inconsistency with provisions of the Zoning Code governing accessory uses/structures.

Section 9 of the draft local law provides for the solar-specific regulations concerning fencing, where applicable, to apply rather than the existing provisions governing fencing.

Section 10 of the draft local law adds a new Section 270-153 to authorize solar farms and solar power plants in the A (Agricultural), I-1 (Light Industrial), and I-2 (Heavy Industrial) zoning districts upon issuance of a special use permit and site plan approval by the Planning Board; provides for certain application documentation and information submission requirements; provides standards for review and approval; and provides for decommissioning and Town remedies.

Section 11 of the draft local law adds a new Article XXVIII (new Sections 270-220 and 270-221) to permit small scale solar systems with regulations applicable to each of the various types, including rooftop/building mounted, building integrated photovoltaic, freestanding/ground mounted, and solar thermal; and to provide for minimum safety requirements with respect to, among other things, installation and connection.

Section 12 provides for continuing enforceability and validity of the provisions of the local law in the event any specific provision(s) are deemed invalid or unenforceable.

Section 13 provides for application of the more restrictive/protective provisions of this law or any other conflicting/different law to the extent permitted by law.

Section 14 provides for effectiveness of the local law following enactment upon filing with the New York State Secretary of State.

Section 15 provides the authority under which the law is adopted and provides for supersession of any inconsistent state law, to the extent permitted by law.

## **PROPERTY TAX IMPLICATIONS AND STRATEGIES**

Section 487 of the New York Real Property Tax Law provides a real property tax and school tax exemption for solar energy systems approved by the New York State Energy Research and Development Authority. The exemption is available for a fifteen year period and applies to the extent of

any increase in assessed value due to the system. The exemption was recently extended from expiring in 2015 to expire in 2025. A town may adopt a local law to provide that no solar exemption shall apply within its jurisdiction for systems constructed after January 1, 1991 or the date of the local law, whichever is later.

With the rise of accessory use solar energy system installations and the increased interest in the Town of Rotterdam in large scale solar energy system, the Town Board may be interested in opting out of the exemption. However, if the Town opts out, it appears that it must do so with respect to all solar systems, without regard to size or intended use. Therefore, while the Town may seek to opt out of the exemption so as to generate tax revenue from large scale solar farms/power plants, it would also be required to opt out with respect to small scale installations, which would increase assessments on, for example, single family homes to the extent of the increase in value attributable to the solar energy system. Accordingly, if the Town seeks to capitalize on an increase in its tax base associated with large scale solar farms/solar power plants, while allowing homeowners and small businesses the benefit of the exemption for small scale solar systems, the local opt-out option made available under Section 487 of the New York Real Property Tax Law does not appear to be available.

Section 487 does provide, however, that upon receiving notification from an owner or developer of its intent to construct a solar system, the Town may require such owner or developer to enter into a Payment in Lieu of Taxes Agreement ("PILOT Agreement"), which may require annual payments in an amount not to exceed the amounts which would otherwise be payable in the absence of the exemption. This option would allow the Town to require installers of larger solar energy systems to make payments in lieu of taxes, while still allowing installers of smaller solar systems to continue to enjoy the benefits of the exemption. In order to be entitled to require the owner or developer to enter in to such a PILOT Agreement, the Town must notify the owner or developer of its intent to require a PILOT Agreement within sixty days after receiving written notification from the owner or developer.

## **RECOMMENDATIONS**

The Rotterdam Steering Committee respectfully recommends that the Town Board consider adoption of the draft local law annexed hereto as **Appendix A**. The law would provide more specific regulations governing installation of small scale solar energy systems that address some of the land use nuances that are addressed by generally applicable accessory use regulations. The law would also permit use of land for solar farms/solar power plants in three zoning districts in the Town found by the Committee to be most appropriate for such uses. The law would require any owner or developer of a solar farm/solar power plant to secure a special use permit from the Planning Board, which would authorize the Planning Board to deny any application that fails to meet the special use permit standards, which are designed to be protective of the surrounding community. The law would also require site plan review and approval for solar farms/solar power plants, which would allow the Planning Board to ensure that the internal details of the site are sufficient.

The Rotterdam Steering Committee further respectfully recommends that the Town require any owner or developer of a solar farm/solar power plant to enter into a PILOT Agreement to pay amounts that would be due in the absence of the tax exemption provided by state law.

# Appendix A

New York State Department of State  
Division of Corporations, State Records and Uniform Commercial Code  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001  
www.dos.ny.gov

## *Local Law Filing*

---

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County    City    Town    Village  
(select one)

of Rotterdam

Local Law No. \_\_\_\_ of the year 2016

**A LOCAL LAW RELATING TO SOLAR ENERGY FACILITIES IN THE TOWN OF  
ROTTERDAM**

**Be it enacted by the Town Board of the Town of Rotterdam as follows:**

See attached.

---

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**TOWN OF ROTTERDAM  
LOCAL LAW NO. \_\_ OF THE YEAR 2016  
A LOCAL LAW RELATING TO SOLAR ENERGY FACILITIES  
IN THE TOWN OF ROTTERDAM**

**SECTION 1 - TITLE**

This Local Law shall be referred to as “A Local Law Relating to Solar Energy Facilities in the Town of Rotterdam”.

**SECTION 2 – PURPOSE AND INTENT**

Solar energy is a renewable and non-polluting resource that can prevent fossil fuel emissions and reduce a municipality’s energy load. The use of solar energy equipment for the purpose of providing energy is a priority and is a necessary component of the Town of Rotterdam’s current and long-term sustainability needs. This Local Law aims to accommodate solar energy systems and equipment, to balance the potential impact of such systems and equipment on neighbors, and to preserve the rights of property owners to install such solar energy systems and equipment without excess regulation.

**SECTION 3 - DEFINITIONS**

Chapter 270, § 270-5 of the Town Code of the Town of Rotterdam is hereby amended to add the following definitions of terms:

**BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS**

A solar energy system that consists of integrating photovoltaic modules into the building materials comprising the structure, such as the roof material or the façade material, and which does not constitute a Rooftop or Building-Mounted Solar System.

**FLUSH-MOUNTED SOLAR PANEL**

A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

**FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM**

A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered Freestanding or Ground-Mounted Solar Energy Systems.

**PHOTOVOLTAIC (PV) SYSTEMS**

A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

**QUALIFIED SOLAR INSTALLER**

A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installation and has received safety training on the hazards

involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town Building Inspector/Code Enforcement Officer or such other Town officer or employee as the Town Board designates determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

#### ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM

A solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames.

#### SMALL-SCALE SOLAR

Solar photovoltaic systems or solar-thermal systems which serve only the building to which they are attached, or the building or buildings located on the same lot as such system. The Building Inspector/Code Enforcement Officer shall be authorized to require any applicant to submit proof of the last twelve months of electricity usage for such lot or building, or in the case where twelve months of electricity usage data cannot be produced, proof of the projected electricity usage for such lot or building, for purposes of determining whether an applicant's proposed solar energy system constitutes a Small-Scale Solar energy system.

#### SOLAR COLLECTOR

A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

#### SOLAR ENERGY EQUIPMENT/SYSTEM

Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and 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. A solar energy system does not include any solar energy system of four square feet in size or less.

#### SOLAR FARM OR SOLAR POWER PLANT

Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity or off-site consumption.

**SOLAR PANEL**

A device for the direct conversion of solar energy into electricity.

**SOLAR STORAGE BATTERY**

A device that stores energy from the sun and makes it available in an electrical form.

**SOLAR-THERMAL SYSTEMS**

Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

**SECTION 4 - AMENDMENT OF § 270-15**

Chapter 270, § 270-15 of the Town Code of the Town of Rotterdam is hereby amended by adding a new subparagraph (E), as follows:

- E. Small-Scale Solar. In the case of Small-Scale Solar energy systems or devices, to the extent the foregoing provisions are inconsistent with the provisions of Article XXVIII, the provisions of Article XXVIII shall apply.

**SECTION 5 - ADDITION OF SOLAR FARMS AND SOLAR POWER PLANTS AS SPECIAL PERMIT USE IN A – AGRICULTURAL DISTRICT**

Chapter 270, § 270-18 of the Town Code of the Town of Rotterdam is hereby amended by adding a new subparagraph (M), as follows:

- M. Solar Farms and Solar Power Plants in accordance with § 270-153.

**SECTION 6 - ADDITION OF SOLAR FARMS AND SOLAR POWER PLANTS AS SPECIAL PERMIT USE IN I-1 – LIGHT INDUSTRIAL DISTRICT**

Chapter 270, § 270-73 of the Town Code of the Town of Rotterdam is hereby amended by adding a new subparagraph (O), as follows:

- O. Solar Farms and Solar Power Plants in accordance with § 270-153.

**SECTION 7 - ADDITION OF SOLAR FARMS AND SOLAR POWER PLANTS AS SPECIAL PERMIT USE IN I-2 – HEAVY INDUSTRIAL DISTRICT**

Chapter 270, § 270-84 of the Town Code of the Town of Rotterdam is hereby amended by adding a new subparagraph (G), as follows:

- G. Solar Farms and Solar Power Plants in accordance with § 270-153.

**SECTION 8 - AMENDMENT OF § 270-138**

Chapter 270, § 270-138 of the Town Code of the Town of Rotterdam is hereby amended by adding a new subparagraph (D), as follows:

- D. Small-Scale Solar. In the case of Small-Scale Solar energy systems or devices, to the extent the foregoing provisions are inconsistent with the provisions of Article XXVIII, the provisions of Article XXVIII shall apply.

#### **SECTION 9 - AMENDMENT OF § 270-143**

Chapter 270, § 270-143 of the Town Code of the Town of Rotterdam is hereby amended by adding a new subparagraph (G), as follows:

- G. Exception for Solar Farms and Solar Power Plants. The provisions of this section shall not apply to fences enclosing Solar Farms and Solar Power Plants.

#### **SECTION 10 - SOLAR FARMS AND SOLAR POWER PLANTS**

Chapter 270 of the Town Code of the Town of Rotterdam is hereby amended by adding a new section, § 270-153, as follows:

#### **§ 270-153. Solar Farms**

- A. Solar Farms and Solar Power Plants are permissible in the A – Agricultural, I-1 – Light Industrial, and I-2 – Heavy Industrial Zoning Districts in the Town of Rotterdam upon issuance of a special use permit and site plan approval by the Planning Board.
- B. In addition to the information and materials required under Article XVII (Site Plan Approval) and Article XIX (Special Use Permits), all applications for Solar Farms or Solar Power Plants shall include the following, except to the extent waived by the Planning Board:
  - (1) Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval.
  - (2) An electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices identified.

- (3) Documentation of access to the project site(s), including location of all access roads, gates, and parking areas.
- (4) Plan for clearing and/or grading of site.
- (5) A stormwater pollution prevention plan as per NYSDEC requirements to detail stormwater runoff management and erosion control plans for the site.
- (6) Documentation of utility notification, including an electric service order number.
- (7) Decommissioning plan and description of financial surety that satisfies the Town that all required improvements shall be made for Solar Farms or Solar Power Plants. For all such systems, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition, and estimated decommissioning costs, including any salvage value.
- (8) The Town shall require any applicant to pay all associated costs for any application review, including but not limited to engineering, legal, environmental, planning, and the review required under SEQRA. When the Planning Board determines that a review will require engineering, legal, environmental, or planning costs, they shall provide an estimate to the applicant. Subsequently, such payment shall be made prior to commencement of any further Planning Board review.
- (9) Photo simulations shall be included showing the proposed solar energy system in relation to the building/site, along with elevation views and dimensions, and manufacturer's specifications and photographs of the proposed solar energy system, solar collectors, and all other components.
- (10) Part I of the Environmental Assessment Form completed and signed.
- (11) Details of the proposed noise that may be generated by inverter fans. The Planning Board may require a noise analysis to determine potential adverse noise impacts.
- (12) Any other information or documentation as may be reasonably required by the Planning Board.

C. All applications for Solar Farms or Solar Power Plants shall be reviewed and determined in accordance with the procedures and standards set forth in Article XVII (Site Plan Approval) and Article XIX (Special Use Permits) of this Chapter. In addition, the following provisions shall apply:

- (1) All such systems shall adhere to all applicable Town of Rotterdam building, plumbing, electrical, and fire codes.
- (2) Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Rotterdam or other federal or state regulatory agencies. Lands which have the highest ecological values as evidenced by large, contiguous areas of forest, undisturbed drainage areas, wetlands, or NYSDEC identified critical habitats or rare plant and animals populations shall be avoided.
- (3) With the exception of transmission lines and related structures necessary for transmitting electricity generated by the solar energy system for off-site distribution and/or consumption, there shall be a minimum 100 foot buffer between any component of the solar energy system and the parcel boundary line. The Planning Board is authorized to increase the width of this buffer after analysis of site conditions and adjacent land uses.
- (4) Any site containing such solar energy system shall be enclosed by perimeter fencing to restrict unauthorized access at a height of 8 ½ feet or such other height determined by the Planning Board.
- (5) Previously cleared or disturbed areas are preferred locations for solar panel arrays. The clearing of additional lands to accommodate a proposed utility-scale solar energy facility may be permitted, provided the percentage of newly cleared land on any parcel does not exceed 30% of the existing woodlands on that parcel.
- (6) Native grasses and vegetation shall be maintained below the arrays.
- (7) A berm, landscape screen, natural vegetation, or any combination thereof acceptable to the Planning Board capable of screening the site, shall be provided. The solar facility, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid or minimize visual impacts as viewed from:
  - (a) Publicly dedicated roads and highways; and
  - (b) Existing residential dwellings located on contiguous parcels.
- (8) The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.

- (9) All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color to aid in blending the facility into the existing environment.
- (10) All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
- (11) Artificial lighting of solar energy systems shall be limited to lighting required for safety purposes and shall be shielded from all neighboring properties and public roads.
- (12) The manufacturers or installer's identification and appropriate warning signage shall be posted at the entry to the site and clearly visible; provided, however, that total area of such signage shall not exceed twenty-four square feet.
- (13) The height of the solar panel arrays shall not exceed twenty-five feet.
- (14) The Planning Board shall require security in an amount and form acceptable to the Town for the purposes of ensuring that the system is removed and the site is restored as required under § 270-153 (D) of this Chapter. The amount shall be determined by an estimate of total cost of removal of the solar energy system and restoration of the site. Acceptable forms of security shall include, in order of preference: cash or letter of credit, or a combination thereof.
- (15) Following construction of a large-scale or utility-scale ground-mounted solar energy system, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust, which grass and vegetation shall be reasonably maintained.
- (16) Special use permits granted for utility-scale solar energy systems shall be assignable or transferable to future landowners of that system on the approved parcel so long as they are in full compliance with this Chapter and all conditions of the special use permit, and the Building Inspector/Code

Enforcement Officer is notified of the property transfer at least 15 days prior thereto.

- (17) Any post-construction changes or alterations to the solar energy system except for repairs, replacements, and upgrades of existing equipment shall be done only by amendment to the special use permit and site plan approval and subject to the requirements of this Chapter.
- (18) After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.

- D. Abandonment or Decommissioning: Solar Farms or Solar Power Plants which have not been in active and continuous service for a period of one year shall be deemed abandoned and shall be removed at the owner's or operator's expense. Decommissioning shall include removal of all energy facilities, structures and equipment including any subsurface wires and footings from the parcel. Any access roads created for building or maintaining the systems shall also be removed and re-planted with vegetation. In the event that the facility is not removed within six months of abandonment, and the site restored as required, the Town may cause the same to be removed and the site restored using the security posted as required by § 270-153 (C) (14) of this Chapter.

## **SECTION 11 - SMALL-SCALE SOLAR**

Chapter 270 of the Town Code of the Town of Rotterdam is hereby amended by adding a new Article XXVIII, as follows:

### **Article XXVIII – Small-Scale Solar**

#### **§ 270-220 – Permits Required for Small-Scale Solar Energy Systems**

- A. The provisions of this Article apply to Small-Scale Solar energy systems. No Small Scale solar energy system or device shall be installed or operated in the Town except in compliance with this Article.
- B. Rooftop and Building-Mounted Solar Collectors. Rooftop and building-mounted solar collectors that constitute Small-Scale Solar energy systems are permitted in all zoning districts in the Town subject to the following conditions:
  - 1. Building permits shall be required for installation of all rooftop and building-mounted solar collectors.

2. Rooftop and building-mounted solar collectors shall not exceed the maximum allowed height of the principal use in any zoning district.
  3. All rooftop and building-mounted solar collectors shall meet all applicable standards set forth in the New York State Uniform Fire Prevention and Building Code.
- C.** Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems that constitute Small-Scale Solar energy systems are permitted in all zoning districts and shall be shown on the plans submitted for the building permit application for the building containing the system. All BIPV systems shall meet all applicable standards set forth in the New York State Uniform Fire Prevention and Building Code.
- D.** Freestanding or Ground-Mounted Solar Energy Systems: Freestanding or ground-mounted solar collectors that constitute Small-Scale Solar energy systems are permitted as accessory structures in all zoning districts of the Town subject to the following conditions:
1. Building permits are required for the installation of all ground-mounted and freestanding solar collectors.
  2. All ground-mounted or freestanding solar collectors shall be setback from the property line by the greater of (i) 20 feet or (ii) the otherwise applicable setback in the subject zoning district. No ground-mounted or freestanding solar collectors shall be permitted on any lot which is less than ½ acre in size.
  3. The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.
  4. Solar energy equipment shall not be sited within any required buffer area.
  5. The total surface area of all ground-mounted and freestanding solar collectors on a lot shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured from the exterior walls, excluding patios, decks, balconies, screened and open porches and attached garages, provided that non-residential placements exceeding this size may be approved by the Planning Board, subject to site plan review pursuant to Article XVII of this Chapter.
  6. The area beneath ground-mounted and freestanding solar collectors shall be included in calculating whether the lot meets maximum permitted Lot Coverage requirements for the applicable District as if the ground-mounted and freestanding solar collectors were deemed to be principal or accessory buildings for purposes of the definition of the term "Lot Coverage"; and
  7. The installation of ground-mounted and freestanding solar collectors shall be considered a land development activity for purposes of Article XXVI of this Chapter.

- E. Solar-Thermal Systems: Solar-thermal systems that constitute Small-Scale Solar energy systems are permitted in all zoning districts subject to the following conditions:
1. Building permits are required for the installation of all solar-thermal systems;
  2. Ground-mounted and freestanding solar-thermal systems shall be subject to the same requirements set forth in Subsection D above as for ground-mounted and freestanding solar collectors.
- F. Solar energy systems and equipment that constitute Small-Scale Solar energy systems may be permitted only if they are determined not to present any unreasonable safety risks, including, but not limited to, related to the following:
1. Weight load;
  2. Wind resistance;
  3. Ingress or egress in the event of fire or other emergency.
- G. Solar collectors and related equipment that constitute Small-Scale Solar energy systems shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
- H. All Small-Scale Solar energy systems shall be designed to produce only so much energy as may be required on the lot or in the building to be served by the system. The Building Inspector/Code Enforcement Officer shall be authorized to require any applicant to submit proof of the last twelve months of electricity usage for such lot or building, or in the case where twelve months of electricity usage data cannot be produced, proof of the projected electricity usage for such lot or building. The Building Inspector/Code Enforcement Officer shall be authorized to deny any application that seeks to install a solar energy system that is designed to produce, or is capable of producing, energy in excess of the electricity usage data or projection for such building or lot.

## **§ 270-221 - Safety**

- A. All solar collector installations must be performed by a qualified solar installer.
- B. Prior to operation, electrical connections must be inspected by The Building Inspector/Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.
- C. Any connection to the public utility grid must be inspected by the appropriate public utility.
- D. Solar energy systems shall be maintained in good working order.

- E. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
- F. Solar energy systems and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover. For commercial applications, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

#### **SECTION 12 - SEVERABILITY**

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

#### **SECTION 13 - CONFLICT WITH OTHER LAWS**

Where this Law differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective of the Town and the public shall apply.

#### **SECTION 14 - EFFECTIVE DATE**

This Law shall become effective upon filing with the New York State Secretary of State.

#### **SECTION 15 - AUTHORITY**

This Local Law is enacted pursuant to the New York Municipal Home Rule Law. This Local Law shall supersede the provisions of the New York Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the New York Municipal Home Rule Law, or any other applicable statute.

**DPW Comments  
November 15, 2016**

**2. RM Lent Properties, LLC - Mariaville Road & Burdeck Street.** Final Site Plan/Three (3) Lot Subdivision Public Hearing Review Lot 1 = ±1.97 acres with RM Lent Excavating business, Lot 2 = ±2.25 acres with proposed 30 one (1) bedroom apartments, Lot 3 = ±1.71 acres (vacant).  
Engineer: ABD Engineers, LLP.

1)	Final Fees Due: Final	Site Plan		\$150.00
		Parkland	1 lots @ \$750 per lot	\$750.00
			30 units @ \$500 per unit	\$15,000.00
		Legal Notices		\$43.86
		Total		\$15,943.86

- 2) Approval is conditioned upon applicant addressing all Town Designated Engineer (TDE) and Rotterdam Department of Public Works (DPW) comments and full and final approval of the TDE and DPW.
- 3) Final approval is contingent upon receiving highway work permits from the New York State Department of Transportation (NYSDOT) for access and utility work in the State right of way.
- 4) Final approval is contingent upon receiving NYSDEC approval of the sanitary sewer facilities.
- 5) Prior to the issuance of Site Development and/or Building Permit(s) by the Town of Rotterdam, the applicant shall receive NYSDEC and DPW approval of the Stormwater Plan and associated SPDES permit.
- 6) The developer shall be required to enter into a contract with the Town of Rotterdam and an engineering firm(s) for compliance with Town of Rotterdam and NYSDEC stormwater regulations.
- 7) The applicant shall provide the Town of Rotterdam Department of Public Works paper and electronic file copies of the utility "As-Built Record Drawings" upon completion and testing of the utilities.
- 8) Proposed access easement from Lot #1 as depicted on the subdivision map must be filed concurrently and prior to the Chairman's Signature on the Site Plan.
- 9) All lot corners shall be pinned and capped prior to the Chairman's Signature.
- 10) Add note to plans and place on detail sheets: "All fire hydrants shall be equipped with a 4' galvanized spring flag with reflective bands."
- 11) Add note to plan: "Private wells shall supply water for landscaping purposes."

**DPW Comments**  
**RM Lent Properties, LLC**  
**November 15, 2016**  
**Page 2**

- 12) Add note to plan: "No stockpiling or burying of debris, slash, stumps, or construction material is permitted."
- 13) Add note to plan: "All fill material to be utilized on site shall meet the requirements of Chapter 17 and Chapter 18 of the New York State Building Code and verified by the Rotterdam Building Inspector."
- 14) Area around fire hydrant does not meet the minimum standards for clearance (see Appendix D of the NYS Fire Code). Site Plan should be adjusted accordingly to provide a minimum of 26 feet.
- 15) Add note to plan: "Easement to the Town of Rotterdam for sidewalk on Mariaville Road shall be filed prior to the issuance of Building Permits. Approval as to form by the Town Attorney and acceptance by the Town Board is required."
- 16) "Add note to plan: Jamie Malcolm – NYSDEC Region #4 has granted a formal variance to the need for a 100% expansion area for the on-site sanitary disposal system for this project." (see e-mail dated October 31, 2016).
- 17) Add note to plan: "Existing NYSDOT access to Lot #3 shall be permitted to be utilized for excavation business and shall remain. Future redevelopment of Lot #3 will utilize a shared access point located on Lot #2 and easternmost access point eliminated subject to review and approval by the Rotterdam Planning Commission and NYSDOT."
- 18) 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, DPW staff, and the TDE to confirm the completion of the above stated conditions.

***DPW Comments from October 4, 2016***

1. Revised driveway access plan is acceptable to NYSDOT and provides additional distance from the intersection of Burdeck Street and Mariaville Road (see attached).
2. Check for conformance with Uniform Building Code for fire access (see attached).
3. Applicant should consult with Fire District #6 on revised layout. Additional hydrant may be warranted. Access to property from hydrant on Mariaville Road may not be practical.
4. Revised layout eliminates the "island building" and provides more greenspace interior to the site.

***DPW Comments from August 23, 2016***

1. A response from ABD Engineers to the review letter dated July 13, 2016 from Fred Mastroianni the Town TDE on this project is enclosed.
2. See enclosed minutes from the July 19, 2016 Planning Commission meeting.
3. Contrary to comments made at the July 19, 2016 meeting of the Planning Commission, the septic expansion area is required by NYSDEC. Expansion area is now shown on the plans but is not on the property. Variances from NYSDEC may be required.

***DPW Comments from July 19, 2016***

1. Land development activities have occurred recently and it appears to be at or greater than one (1) acre in size. Engineer must confirm size and type of site disturbance activities on proposed 3 lot subdivision. Check with Building Inspector for specific requirements.
2. See comments received July 15<sup>th</sup> from Planning Commission TDE Greenman Pedersen (attached).
3. Provide renderings and/or elevations of proposed buildings.
4. As discussed with the applicant, DPW believes that construction of the connection to Burdeck Street during the first phase is essential to this project given the proposed subdivision into 3 lots. Town concurs with the comments from CDTA, NYSDOT and Schenectady County regarding vehicular and pedestrian access management. Lack of turn lanes on Burdeck and Mariaville Roads creates additional access challenges.
5. Applicant should consider adding some type of outdoor area and/or amenities. Are decks/patios proposed?
6. Revised plan creates additional paved area for apartment complex and eliminates the potential for snow storage on-site.
7. Is a maintenance shed/building proposed? Office or common area? Mailbox kiosk?

***DPW Comments from May 3, 2016***

1. Layout and circulation are extremely poor. Consideration should be given to providing an access roadway and curb cut onto Burdeck Street that can be jointly utilized when the corner parcel is developed.
2. A TDE will be necessary to assist the Planning Commission in review of this project.
3. Sidewalks and/or a bus shelter should be considered both internally and for the bus stop located at this location.

**SEQR Requirement:** 6 NYCRR 617 Unlisted Action. Rotterdam Planning Commission declared lead agency on May 3, 2016. A Draft Negative Declaration has been prepared by the Town Planner and is attached for your consideration.

**Involved/Interested Agencies**

Schenectady County Economic Development and Planning  
Schenectady County Department of Health  
New York State Department of Environmental Conservation – Region #4  
New York State Department of Transportation  
Rotterdam Police Department  
Fire District #6  
Schalmont School District  
Capital District Transit Authority (CDTA)

## Comenzo, Peter

---

**From:** Maher, Mickey  
**Sent:** Monday, October 31, 2016 2:54 PM  
**To:** Comenzo, Peter  
**Subject:** FW: RRA Apartments: Rotterdam (T)

RECEIVED

NOV 04 2016

TOWN OF ROTTERDAM  
PUBLIC WORKS

FYI

**From:** Malcolm, James E (DEC) [mailto:james.malcolm@dec.ny.gov]  
**Sent:** Monday, October 31, 2016 12:21 PM  
**To:** Maher, Mickey <mmaher@rotterdamny.org>  
**Cc:** Luigi Palleschi (luigi@abdeng.com) <luigi@abdeng.com>; Kornak, Kate F (DEC) <Kate.Kornak@dec.ny.gov>  
**Subject:** RRA Apartments: Rotterdam (T)

Mickey,

I spoke with Luigi at ABD on Friday regarding the expansion area at the proposed RRA apartments. Apparently, you still have some concern that a leach field would not meet the definition of an approved activity in an industrial area per Town code. I had sent an e-mail a few weeks back asking for some clarification on the issue (as it's rather unusual) but never heard back from you. We understand that you didn't write the Town code and are only attempting to enforce the current laws on the books...

The consensus is that this e-mail will serve as the Department's formal variance on the need for the expansion area but please be advised that the site plans will not change. If the expansion area is needed in the future, the owner can choose to repair/replace the existing Eljen GSF system (or install an equivalent technology) or discuss use of the area with the Town to determine if the definition has changed (hopefully!) to allow the leach field installation.

Hope this helps,  
Jamie

# APPENDIX D

## FIRE APPARATUS ACCESS ROADS

*This appendix is enforceable.*

### SECTION D101 GENERAL

**D101.1 Scope.** Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the *Fire Code of New York State*.

### SECTION D102 REQUIRED ACCESS

**D102.1 Access and loading.** Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg).

### SECTION D103 MINIMUM SPECIFICATIONS

**D103.1 Access road width with a hydrant.** Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm). See Figure D103.1.

**D103.2 Grade.** Fire apparatus access roads shall not exceed 10 percent in grade.

**Exception:** Grades steeper than 10 percent as approved by the fire chief.

**D103.3 Turning radius.** The minimum turning radius shall be determined by the code enforcement official.

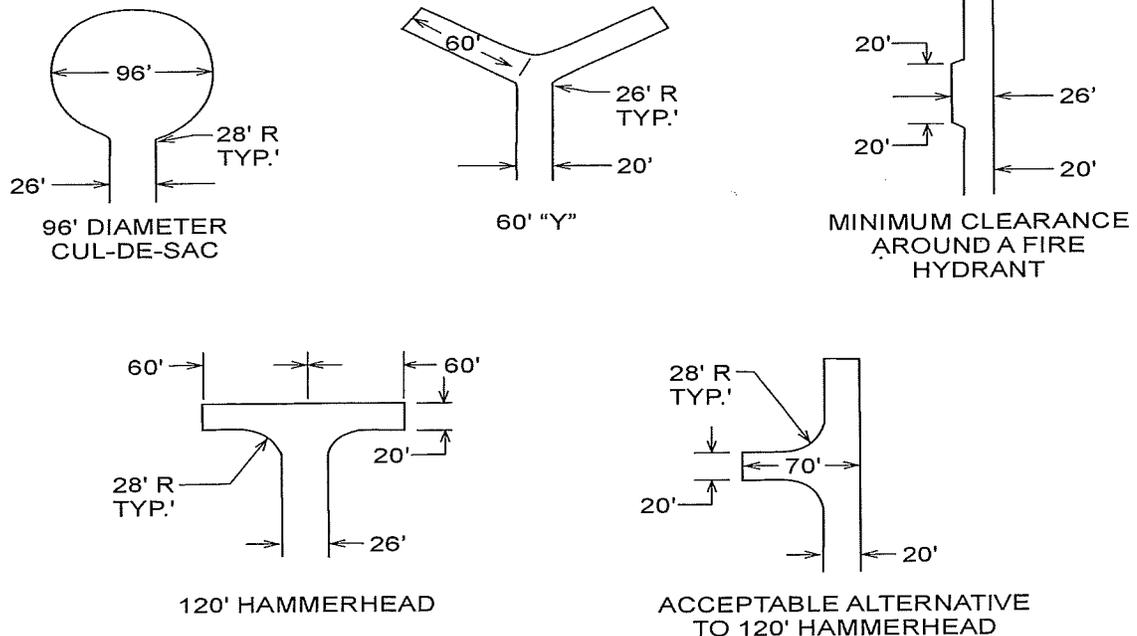
**D103.4 Dead ends.** Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4.

**TABLE D103.4  
REQUIREMENTS FOR DEAD-END FIRE  
APPARATUS ACCESS ROADS**

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0-150	20	None required
151-500	20	120-foot Hammerhead, 60-foot "Y" or 96-foot-diameter cul-de-sac in accordance with Figure D103.1
501-750	26	120-foot Hammerhead, 60-foot "Y" or 96-foot-diameter cul-de-sac in accordance with Figure D103.1
Over 750	Special approval required	

For SI: 1 foot = 304.8 mm.

**D103.5 Fire apparatus access road gates.** Gates securing the fire apparatus access roads shall comply with all of the following criteria:



For SI: 1 foot = 304.8 mm.

**FIGURE D103.1  
DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND**

DRAFT

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

**Date:** November 15, 2016

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:** RM Lent Properties LLC  
604 Mariaville Road  
Schenectady, NY 12306

**Location:** Northeast corner of intersection of Burdeck  
Street and Mariaville Road  
Rotterdam, NY 12306

**Tax Map Number(s):** 48.00-3-4.12 and 48.00-3-4.2

**Zoning:** Light Industrial (I-1) and Multi-Family  
Residential (R-3) Zoning Districts

**Action:** Minor Subdivision and Site Plan approval of thirty (30) unit apartment complex.

DRAFT

**Reasons Supporting This Determination:**

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

This project was 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 Town has retained the services of a Town Designated Engineer (TDE) to assist in the review of this project. All comments from the TDE have been adequately addressed.

The subject property 5.93 acres in size and is located on the northeast corner of the intersection of Burdeck Street and Mariaville Road, in the Town of Rotterdam, Schenectady County, New York. The property is currently undeveloped with the exception of the easternmost portion where an existing excavation company is located.

This property currently has access onto Mariaville Road for the existing excavation business via the easternmost driveway. The Applicant is proposing a secondary access to the property just west of this driveway with the construction of a separate driveway to access the proposed apartment project. The Existing NYSDOT access to Lot #3 shall be permitted to be utilized for excavation business and shall remain. Future redevelopment of Lot #3 will utilize a shared access point located on Lot #2 and easternmost access point eliminated subject to review and approval by the Rotterdam Planning Commission and NYSDOT. NYSDOT has reviewed this scenario and granted conceptual approval for this access.

The applicants are constructing a sidewalk along the length of the property in conformance with NYSDEC standards and will be granting an easement to the Town of Rotterdam for maintenance. A bench will be added at the existing CDTA bus stop. The site has been reviewed by the NYS Office of Parks Recreation and Historic Preservation (SHPO) and as stated in a letter dated July 7, 2016 it has been determined that no historic properties will be affected by this project. The site does not contain NYSDEC or US Department of Interior, Army Corps of Engineers (ACOE) wetlands.

After a review of the application materials, Environmental Assessment Form, and comments received on this proposal, the Town Board of the Town of Rotterdam 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 the Planning Commission Public Meeting held on November 15, 2016 at the Rotterdam Town Hall, 1100 Sunrise Boulevard, Rotterdam, NY 12306. Adoption of this negative declaration was moved by XXXXXXXXXXXX, seconded by XXXXXXXXXXXXXXXX, and approved by the Rotterdam Planning Commission.

---

**John Denny III**  
Planning Commission Chairman

**DPW Comments**  
**November 15, 2016**

3. **31 Opus Rotterdam LLC (Tomra) – 31 Opus Boulevard.** Final Site Plan review to allow for the addition of two (2) truck bays on a ±36,400 square foot recycling facility on a ±4.33 acre parcel. Engineer: ABD Engineers, LLP.

1. Final Fees Due: Final Site Plan \$150.00
2. See comment letter from Luigi Palleschi with ABD dated November 4, 2016 (enclosed).
3. See comment letter from Peter Comenzo dated July 24, 2006 discussing ongoing issues with site operations (enclosed).
4. See comment response letter from Michael Checola with Tomra dated August 13, 2006 (enclosed).
5. Planning Commission minutes from October 18, 2016 are enclosed.

***DPW Comments from October 18, 2016***

1. Applicant should explain current operation and need for proposed improvements.
2. Noise and site cleanliness has been an ongoing issue with this facility.
3. Existing site drainage is not functioning as designed due to lack of maintenance and/or design. Significant on and off site erosion has occurred and should be remedied.
4. DPW recommends a TDE to assist the Town in the Review of this site plan.

**SEQR Requirement:** 6 NYCRR 617 Listed Type II Action. A Type II determination has been made by the Town Planner and is attached.

## Comenzo, Peter

---

**From:** Comenzo, Peter  
**Sent:** Wednesday, November 09, 2016 12:20 PM  
**To:** 'joe.oneal@tomra.com'  
**Cc:** 'Luigi A. Palleschi'; Jack Denny; Longo, James; Maher, Mickey; Chris Amorosi; James Keith; Daniel Marciniak; Gallo, Lisa  
**Subject:** Tomra  
**Attachments:** Tomra PC Verbatim Minutes 10 18 16.pdf; Tomra Response to issues letter 8 13 16.pdf; Tomra Letter issues letter 7 24 16.pdf

Joe:

The Chairman has put Tomra on the agenda for the November 15<sup>th</sup> Planning Commission meeting with the hope that we can move this project forward. As mentioned at our meeting on September 15<sup>th</sup>, we have had ongoing issues with your company dating back 10+ years since they have been in operation on Opus Boulevard. I have attached the verbatim minutes from the October 18<sup>th</sup> Planning Commission meeting so that you can see the discussions from the last meeting.

I have also attached my letter dated July 24, 2006 and response from the former Tomra Director of Maintenance dated August 13, 2006 outlining the issues at the time and Tomra's commitment to remedying these problems. Based upon recent complaints and site visits to your facility, it appears that some of these commitments from Tomra have not been kept long term.

I would suggest that in advance of the November 15<sup>th</sup> Planning Commission meeting that you respond in writing once again as to the company's commitment to address the ongoing issues at this facility.

If you have any questions please feel free to contact me.

Thanks  
Peter

*Peter Comenzo - Senior Planner  
Town of Rotterdam  
1100 Sunrise Boulevard  
Rotterdam, NY 12306  
Phone # 518-355-7575 Extension 338  
Fax # 518-355-2725*

*e-mail: [pcomenzo@rotterdamny.org](mailto:pcomenzo@rotterdamny.org)*

*town website: [www.rotterdamny.org](http://www.rotterdamny.org)*

**PARTNERS**  
THOMAS C. ANDRESS, P.E.  
JOSEPH J. BIANCHINE, P.E.  
LUIGI A. PALLESCHI, P.E.

**ABD ENGINEERS, LLP**  
411 Union Street  
Schenectady, NY 12305  
518-377-0315 Fax 518-377-0379  
www.abdeng.com

DEDICATED  
RESPONSIVE  
PROFESSIONAL

November 4, 2016

**Re: TOMRA Recycling  
31 Opus Boulevard  
Town of Rotterdam  
Project #2146T**

---

Mr. Peter Comenzo, Town Planner  
**Town of Rotterdam**  
1100 Sunrise Boulevard  
Schenectady, NY 12306

Dear Peter:

In response to DPW Comments of October 18, 2016 (in italics) we provide the following responses (in bold):

- 1. Applicant should explain current operation and need for proposed improvements.*  
**The current operation involves incoming trailers loaded with empty beverage containers consisting of glass, plastic and aluminum. The trailers enter the weight scale located at the rear of the site before docking at the building. The materials are then removed from the trailers from inside the building and goes through sorting and processing inside the building. The glass is sorted to conveyor belts directed outside into a pit and then loaded to empty trailers for shipment and further processing. Aluminum is bailed indoors and placed in the trailers from indoors for further shipment and processing. The plastic is sorted indoors and shredded indoors and then placed in the trailers from indoors for further shipment and processing.**

**The proposed need for the two dock doors at the rear of the building is to further stream line the plastic process. All plastic entering the site will unload at the inbound dock door. The plastic will be removed from the inbound trailer and further shredding will be done indoors. After the plastic is shredded, it will be loaded from inside the building to the outbound trailer for further shipment and processing.**

- 2. Noise and site cleanliness has been an ongoing issue with this facility.*  
**Most of the noise concerns were from a squeaky bearing on the conveyor belts. This has been repaired. All other outside operations will remain the same as per previous approval. In addition, TOMRA now has two employees dedicated to maintaining the grounds for cleanliness.**

RECEIVED

NOV 04 2016

TOWN OF ROTTERDAM  
PUBLIC WORKS

3. *Existing site drainage is not functioning as designed due to lack of maintenance and/or design. Significant on and off site erosion has occurred and should be remedied.*

**ABD Engineers, LLP investigated the onsite drainage system on October 25, 2016 with TOMRA personnel and uncovered three existing drywells that were covered over with soil. The soil has been removed off the grates, the drywells have been vacuumed out and per recent rains, drainage onsite appears to be in working condition as per previously approved plans.**

4. *DPW recommends a TDE to assist the Town in the Review of this site plan.*  
**ABD Engineers, LLP and TOMRA strongly disagree with a need for a TDE to review this this project now that most of the issues as stated above have been or will be resolved. As recommended by the Planning Commission, a TOMRA representative will be present at the next meeting.**

Please schedule this project on the November 15, 2016 Planning Commission agenda for final approval.

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

Very truly yours,  
**ABD ENGINEERS, LLP**



Luigi A. Palleschi, P.E.  
Partner

LAP:aes

cc: Joe O' Neal  
2146T-110416



Town of Rotterdam  
Department of Public Works

July 24, 2006

Michael Checola – Maintenance Manager  
Tomra Recycling  
5923 Loomis Road  
Farmington, NY 14425

**RE: Tomra Recycling Facility - Rotterdam, NY**

Dear Mr. Checola:

Thank you for taking the time to meet with us Friday to discuss some of the concerns regarding the maintenance and operation of the Opus Boulevard Facility. As discussed during our site visit, the Town of Rotterdam is looking for resolution to the following ongoing issues concerning this facility:

- Lighting**
- Hours of Operation**
- Deviations from Approved Site Plan**
- Drainage**
- Upkeep/Maintenance of Equipment**
- Cleanliness of Site and Adjoining Properties**

**Lighting**

The wall-pack lighting located on the north side of the building is unshielded and emits light in a broadcast pattern off-site. In 2002, timers were installed on the fixtures to facilitate the extinguishment of these fixtures during non-working hours. Apparently these are no longer operational and discussions indicate that these fixtures may need to be on for a longer period of time for employee safety concerns. Discussions in the past have proposed replacement of these fixtures with either lighting that is shielded or the relocation of the lighting and the use of pole mounted lights that broadcast light back towards the building.

Mr. Michael Checola  
July 24, 2006  
Page 2

### **Hours of Operation**

The town has received numerous complaints concerning the outdoor operation of machinery during the early morning and late evening hours. As previously agreed to by the Town and TOMRA, the outdoor operations including use of conveyors shall be limited from 6AM to 9PM. Please limit your outside work to these hours.

### **Deviations from Approved Site Plan**

The layout of this facility has been modified from the approved site plan dated July 31, 2001. Modifications have included the following: trailer parking and storage, the addition of several new bunkers and conveyors to the facility, fencing, additional dumpsters, and outdoor storage of equipment. There were also some discussions about modifying the size/height of the existing bunkers and potential installation of additional fencing. In order to bring your site into compliance, a revised site plan must be submitted to the Town of Rotterdam Planning Commission. You may wish to consider utilizing the engineering firm that prepared the original site plan for this project.

### **Drainage**

The drainage in the northwest corner of the site has continually failed and a large washout area exists in this area. This system must be repaired immediately and all stormwater must remain on-site and be directed to the stormwater appurtenances located on the site.

### **Upkeep/Maintenance of Equipment**

The conveyors on the north side of the facility have not been maintained properly and have been allowed to continue to operate with obvious problems. Hopefully this issue has been resolved. Please forward a copy of your preventative maintenance schedule for this equipment.

### **Cleanliness of Site and Adjoining Properties**

As observed on Friday, there are concerns about the general cleanliness of the exterior of the site and the fugitive waste that winds up off-site onto neighboring properties. As discussed, immediate cleanup issues should be addressed. A plan should be prepared to keep this facility and the neighboring properties free of debris. In addition, TOMRA needs to deal with the issue of fugitive debris and labels on a long-term basis. Plans to

Mr. Michael Checola  
July 24, 2006  
Page 3

address this issue should developed and presented to the town. As discussed these may include the installation of a higher fence or the extension of the height and length of the bunkers. These proposed mitigating measures should be incorporated into your revised site plan for discussion with the Planning Commission.

We hope that our discussions will facilitate better communications with your company and the Town of Rotterdam. We believe that you were sincere in your commitment to become "good neighbors" and hope that these ongoing issues can be resolved once and for all in the next few weeks. Please submit a timeline by August 4<sup>th</sup> for resolution to the above outstanding matters.

I have attached an application for Site Plan approval/modification. Please note that the cover page provides a schedule of their meeting dates and deadlines for submittal of the application materials. If you have any questions please call me at (518) 355-7660.

Sincerely,



Peter Comenzo  
Senior Planner

**Enclosure**

CC: Steven Tommasone – Town Supervisor  
Patrick Sacoccio – Attorney for the Town  
Lawrence DiLallo – Planning Commission Chairman  
Michael Maher – Building Inspector/Code Enforcement Officer  
Patrick Carroll - Building Inspector/Code Enforcement Officer  
Thomas Baynard – Tomra Rotterdam  
File



August 13, 2006

**Town of Rotterdam**  
**Department of Public Works**  
John F. Government Center  
100 Sunrise Boulevard  
Rotterdam, New York 12306

RECEIVED

AUG 16 2006

TOWN OF ROTTERDAM  
PUBLIC WORKS

**Attention: Peter Comenzo, Senior Planner**

**Re: Rotterdam plant**

In response to the towns letter to Tomra of July 24, 2006, following a meeting with the Town Planner, Inspector and Tomra Maintenance Director and Plant Manager. Described below is the requested action plan for addressing the concerns of the Town of Rotterdam public works department.

**Lighting:** The lighting on the rear of the building has been modified with reflectors from the lighting manufacture to direct the light downward to the ground. The work was completed by Mackey Electric on August 10. The lighting timers are under repair by the same contractor and are expected to be completed by August 17.

**Hours of Operation:** The plant hours of operation as agreed upon are 6am to 9pm for those pieces of equipment external to the building. Communication between Peter Comenzo and me will remain ongoing to insure this is adhered to.

**Deviation from approved site plan:** The site plans were obtained and reviewed with the town for the changes that had occurred with parking and equipment external of the building. The plans were modified and sent back to ABD Engineers and Surveyors, Joe Bianchine P.E will have new drawings available for Tomra and the Town by August 21, 2006. No additional modifications to the site are needed at this time and the new plans reflect how the site is currently utilized.

**Drainage:** The North West corner of the site has a fully functional drainage sump; however from initial construction the embankment and area around the drainage sump was not done properly. Contractors were sought to solve the problem and after receiving bids, the work was awarded to Altimor Excavating: repair the area around the drainage sump, restore the washed away embankment and build up the black top area to prevent any reoccurrence. This work will begin Monday August 14, and take 2 days to complete.



**Upkeep and Maintenance of Equipment:** The outbound conveyors have had the bearings and rollers rebuilt and preventative maintenance was completed on August 4th. There is no abnormal noise from any of the equipment external of the building since the repairs. An ongoing maintenance scheduling for cleaning, lubrication and adjustment has been put into place. The schedule will have daily inspections, along with weekly and monthly maintenance to insure reliable and proper operation of the equipment.

**Cleanliness of the Site and Adjoining Properties:** The site had one of many clean ups completed on August 3<sup>rd</sup> and again on August 10<sup>th</sup>. Equipment repairs and modifications to our process lines that will better contain material are ongoing and are expected to be completed by September 15, 2006. Continued cleaning and monitoring of the site and our processes has become a daily task for production department under new leadership in order to keep the standards in our Rotterdam facility in with the rest of our Tomra plants across the US and Canada.

Sincerely,

A handwritten signature in cursive script that reads "Michael Checola".

**Michael Checola**

**Director of Maintenance Tomra**

Email: [michael.checola@tomrana.com](mailto:michael.checola@tomrana.com)

P: 585/512-7289

F: 585/472-3792

cc: Cam Mickie  
Steve Nee  
Alain Nault  
Michelle Kitchin  
Kurt Peacox

2. **31 Opus Rotterdam LLC (Tomra) – 31 Opus Boulevard. Sketch Site Plan review to allow for the addition of two (2) additional truck bays and two (2) retaining walls on an existing ±36,400 square foot recycling facility on a 4.33 acre parcel. Engineer: ABD Engineers and Surveyors.**

*The hearing commenced at 7:43 p.m.*

**Mr. Palleschi:** Good evening, Luigi Palleschi with ABD Engineers. I'm here tonight for 31 Opus Boulevard.

Opus Boulevard, as you know, is off of Burdeck Street. Right next to our proposed site is the old Mastrianni's Bakery and across the street from this site is the self-storage that will hopefully come to fruition and down on the other corner is Hodorowski Homes.

This site is for Tomra which is a recycling company, as you might know. What they do is they take all the glass, aluminum and plastics from beverage containers and it gets hauled to this site and what they do for operation is they come in the back entrance, there is a truck scale and they weigh the material when it comes in on the truck and that dumps into this pit over here and it goes inside the building and they have a crushing process within the building. The glass obviously gets crushed up and it gets recycled. There are conveyor belts along the back here that then convey the crushed product out onto this concrete slab and then you have a loader that picks up the crushed product and puts it back into trailers. The trailer then goes on to the truck scale and off they go and ship it for further process to recycle the products. That is being done off site.

That use is not going to change. The operation will remain the same as to what they are doing today, day in and day out. What they would like to do next is propose dock doors along the rear. Right now, in the back there are overhead doors but we are proposing two (2) dock doors. We would have to change the grade a little bit and put in a couple of retaining walls to drop the grade down to allow for dock doors, but that use, what they want to propose to do is they want to take the plastics that come from off site into there and they are going to have a separate shredding machine inside that takes only the plastics and what that does is it shreds the plastic into smaller granular products and then again that smaller granular product gets shipped out or loaded into the truck and then shipped off site to another closer facility where then it is brought there for further processing. I don't know exactly what they use but they obviously melt it down but this type of product that is a little bit finer of a shredding that would be done and they need a separate area and separate loading door so that they can keep the operation sort of separate.

Right now they have the glass and the aluminums that they do over here and then this would become their plastic entry.

**Chairman Denny:** The plastic is probably ground up and then it's probably loaded in bins and then put on the truck on pallets or bags, probably right? Rather than load it with a loader with the glass?

**Mr. Palleschi:** That I am not sure. I would believe you are correct on that. But again, it's really to get it back in and out of that truck. So, the trucks would be backed up and loaded and they would remove the plastic from inside, go into the back of the trailer, pull the plastic out and shred it and possibly put it in bags and then put them back into the truck and off they go.

**Mr. Yuille:** So that's going to be both ways, in and out.

**Mr. Palleschi:** Yes. I don't know exactly. There are two (2) dock doors and maybe one is in and one is out sort of thing.

**Mr. Yuille:** Can you get somebody from Tomra, because we met with one (1) individual and I can't remember his name, he's new to the site.

**Mr. Palleschi:** I spoke to Joe O'Neill, he's the operation manager.

**Mr. Yuille:** Can you have him come to the preliminary so we can get some details as to what's going on, how it's going to be done and some particulars about the particular business such as hours of operation.

**Mr. Palleschi:** The hours of operation are not going to change. They are a 24-hour operation now.

**Mr. Yuille:** No.

**Mr. Palleschi:** No?

**Mr. Yuille:** No. Peter, what's the hours of operation? They have a time limit, 10 o'clock?

**Mr. Comenzo:** Six o'clock a.m. (6:00) to 10:00 p.m.

**Mr. Palleschi:** I spoke to Joe O'Neill and they are not changing the hours of operation. They are going to remain as they sit today.

**Mr. Yuille:** I want to make sure that he's here so that we can reinforce that with him because we will pull out the old conditions from the original site plan.

**Mr. Palleschi:** I did speak with him today and unfortunately they have a facility in Buffalo and that is where he is. So, it's a hit or miss when he can be in the area, but I can certainly ask him to be here. If we can get a list of questions I can certainly get with Mr. O'Neill and get all the questions answered and provide it to you in a written form or email or one way or another in case he can't make the next meeting.

**Mr. Yuille:** I would like to see somebody from the company here. Either for the preliminary or the final.

**Mr. Palleschi:** That is basically the existing operations and the proposed operations and why we are proposing those dock doors and now in going through the DPW comments that was addressing item number one (1).

Item number two (2) noise and site cleanliness. After talking with Joe O'Neil again, last year there were some complaints about noise and the noise really came from the bearings on the conveyor belts on the outside and they've oiled them up and they've repaired them and they do routine maintenance on them and that's not an issue right now. He said he can't recall the last time he had a complaint and he wants to say it was maybe over a year ago where it was an issue, the town or somebody came and brought it to his attention and right away went ahead and did the maintenance and I was out there this morning and the conveyor belts were running and I didn't hear the squeaky bearings that he was explaining to me.

**Mr. Yuille:** I was there this morning too.

**Mr. Palleschi:** That is basically the noise and the site cleanliness. They hired extra employees so that they can stay on top of cleaning around the site. Not too long ago, they had these two (2) employees that's all they do is go around and clean up all the bags that get blown over and the labels that might appear from the plastic bottles and what not. They are aware of that. He even said, if there is an issue to just please let him know and he'll address it. He wants to be a good a neighbor and whatever he has to do to keep the town happy and the neighbors as well.

Number three (3) is the existing site drainage is not functioning as designed. That was the reason why I went out there this morning and I did look at it and I walked the entire site. Here it states there is significant on and off site erosion. I didn't see any on site erosion. The majority of the site is either gravel or pavement. So, there is no erosion from our site. It sounds like there might be an off-site issue that I didn't really see, there was a little bit kind of across the street, but not on our site. Again, the lack of maintenance, if you drive down Opus Boulevard you can see brush or woods or trees actually almost growing out of the catch basins. I know Opus is owned by the Town of Rotterdam. Maybe the highway department needs to go and suck those catch basins out. Do the maintenance that they should have been doing for all these years. From what I saw, this site isn't causing the problem especially for what we are proposing to do. It's like 1,000

square feet of area that we need to put retaining walls in and a couple of dock doors that isn't going to effect the drainage on the site.

Number four (4), I talked to Joe O'Neill about it and he's not familiar with this process and I explained it to him and he said what does a TDE have to review on a site like this. It's a couple of dock doors and we're not changing anything and he said that he had met with DPW at one point and he was under the impression that this was under a site plan waiver which I know we've done before for such a small little revision to the site plan. I really don't know why DPW is recommending a TDE, but I have to state it for my client because we had a conversation about it today. If we could waive a TDE on this one because I don't really know what they are going to review, I would like to discuss that and see what the argument is for that.

**Chairman Denny:** We were out there and looking at it too and I know "Inaudible" on their property, but the drainage off that parking lot is coming off the back side of that parking lot, washing the bank away on the one side of the road beside the fence where the catch basin with the trees growing out if it is washing the dirt away there too, but it's from the water coming from their property. That is why we thought we might need a TDE.

**Mr. Palleschi:** There is a wing edge right along the entire north side of the property that drain to individual drywells per the design.

**Chairman Denny:** Apparently, they're not taking...

**Mr. Palleschi:** If water was flowing over the erosion it would be happening on this steeper slope before they even hit the road. I was out there today.

**Chairman Denny:** If you went around the outside, right along the fence you see where the erosion starts, right at the fence and washes the dirt down the bank.

**Mr. Palleschi:** You're talking about over here and that is where the erosion is occurring on the opposite side of the road. That's not Tomra's problem.

**Chairman Denny:** I think it's on their side of the road too.

**Mr. Palleschi:** This has been operational for how many years now and it's not Tomra's problem for what we're proposing here it isn't going to change.

**Chairman Denny:** That's why we are probably going to suggest that we hire a TDE to look at it and see what he thinks.

**Mr. Palleschi:** It's a town issue. They are not maintaining the catch basins so the town should hire the TDE and not Tomra.

We went through the four (4) comments that DPW brought up so at this time, I will turn it over to the Board.

**Chairman Denny:** Mr. Yuille, do you have any more comments?

**Mr. Yuille:** I was Chairman for nine (9) years and this project here was a pain in butt for the nine (9) years that I was there. When you say it didn't wash out because the dirt was piled halfway across the road from where it washed it out and if you went back there this morning, like I did, you'll see the big wet spot on the roadway where they came through, where they front end loaded it. Either the Town or Tomra. I assume it was Tomra because we sent Joe O'Neill out there with one of our building inspectors to look at it and then a couple other ones went out there.

The problem is not keeping the site clean. I was there today and the site didn't look bad. There was some glass broken on the ground that needs to be cleaned up. I didn't see a lot of paper or labels blowing around, but when Mr. DelGallo was in here he did nothing but complain about this site. He said that he goes out there once a week to clean the garbage up that blows across the street. So, that problem that we have at that site is an ongoing problem. Right now, Joe O'Neill is going to say yeah, we'll take care of it and it will look good. Six (6) months from now Joe O'Neill will be some place out or working for a different company and somebody else will be there and the whole thing goes into rack and ruin and then it's a mess all over again.

They violate the hours of operation. They need to do something with the conveyor belts to keep the labels from blowing over and I don't know how you do that. You either put a cover over them, redesign them or whatever it is and they need to make sure that this site is maintained. I realized it's an industrial area, but we got sold a bill of goods with this one. When this thing was done, that's why I said we need to pull the original conditions on this site plan and make sure that it's being done correctly. I can remember that there were complaints made and so many complaints made that the police refused to go there and they told the resident to call the Town Attorney if you have a complaint because we are not coming there anymore. This was years ago, this wasn't recently. This was years ago. There has been nothing but problems there. I know for a fact that Peter got a call one night and you could hear the machines grinding in the background, you could hear the bearings grinding on it. This has been an issue.

As far as the water, I don't know whether it's going over the wing edge or running down that bank but something needs to be done and I do agree with you, the Town Highway Department needs to go out there and they need to do some clean up out there and they need to get their catch basins cleaned out or at least inspected and that's the thing that we're going to look for. I think we need a TDE on this project and I will be the one to make the motion on that.

Thank you, Mr. Chairman.

**Chairman Denny:** Mr. Severson?

**Mr. Severson:** I think after that presentation; I don't think I need to say anything more. I don't have any other questions.

**Chairman Denny:** Mr. Bradt?

**Mr. Bradt:** I agree with Mr. Yuille in that the cleanliness is the big issue out there. It's a mess out there at times. That's all I have.

**Chairman Denny:** Mr. Collins?

**Mr. Collins:** I agree with Mr. Yuille. I went out there over the weekend and "Inaudible" and Tom made enough comments that I'm good.

**Chairman Denny:** Mr. DiLallo?

**Mr. DiLallo:** I agree with the other commission members.

**Chairman Denny:** Mrs. Flansburg?

**Mrs. Flansburg:** I also agree with the other commission members.

**Chairman Denny:** I don't mean to lay all this on you because the care of the property is not really your concern, but you do have to talk to Joe...

**Mr. Palleschi:** I did talk to Joe and Joe did say that he's cleaning it. He hired employees to keep it clean.

**Mr. Yuille:** That was going to be one of my suggestions, by the way, to hire a couple of maintenance people.

**Mr. Palleschi:** That should satisfy your concern on that.

**Mr. Yuille:** That's why I want to talk to him. I don't want it secondhand. I want it from them.

**Chairman Denny:** We need to see him or to talk to him.

**Mr. Yuille:** You need to get them in here because you can't make agreements for them.

**Mr. Palleschi:** I have no problem asking him to be at the next meeting. The TDE should really be burdened on the town and not Tomra.

**Mr. Yuille:** If the drainage is not working on that site, I don't see how you would did not see. Now the drainage on the other side that is the town. That needs to be looked at by the highway department and we can make that recommendation. In fact, I can do that as a motion tonight to have us contact the highway department and have them go out there to take a look at it to see what can be done.

**Mr. Comenzo:** Luigi, I haven't been out there recently but there was substantial erosion coming from the back end of that property and I don't know if Mr. O'Neill addressed that but it was brought up at the DPW meeting whether he went out there and got a front-end loader and cleaned things up for the meeting tonight...

**Mr. Palleschi:** What I did see, on this side of the wing edge there were signs, I don't know how long ago, where it did go over the wing edge there and somebody did go and build a berm on that side of the wing edge. Again, that's on the town's road.

**Mr. Comenzo:** It was coming off of the wing edge from the property. The water was coming from this property washing out behind the fence there into the roadway...

**Mr. Palleschi:** It's not coming from the actual Opus Boulevard Road bypassing all the catch basins...

**Mr. Comenzo:** It's bypassing the catch basins in the back of the wing edge. You've got four (4) acres draining to how many catch basins in the rear of the property that are filled with garbage a lot. There is no way for water to get in there because there is garbage in the whole rear of the site. It's filled with labels and broken glass and this is over the years. This place has been there for 15 years now. It's been an ongoing issue with this site. Every year there is somebody out there and there's issues and then it goes away and it comes back and it goes away and so on.

**Mr. Yuille:** My goal is to bring them into compliance. That is what my goal is and that is why I went on that rant. I would like somebody from the company here so I can give them the information. Mr. Denny already did that at the meeting with Joe.

**Chairman Denny:** Anyone in the audience have any comments?

**Ms. Strang:** I'm Andrea Strang and I have property adjoining on the other side. I have a farm and it's kind of nice and we try to maintain it and keep it attractive. Keep the buildings in repair. I must say that ever since Tomra has been there disappointing is the nicest thing I can come up with. This is the first I've heard that it was a 24-hour operation.

Last night the motor was running and it finally shut off at 10 minutes of 11. I understand and except for extreme cases and holidays, the original hours set were 6:00 a.m. to 9:00 p.m. with the possible extension to 10:00 p.m. for holiday season. Well, it's not holiday season. They have consistently wakened us up in the morning with this operation. I can't tell you how many times I've talked to Mr. Keith about this issue and I'm not convinced that it hasn't been reported to management at Tomra. I believe it has diligently been reported, they just don't care and that is my take on the whole situation.

I believe it's eight (8) years since they've been there and it's been fairly miserable. The quality of our life has gone down. Our taxes don't go down, but our quality of life does. They can't seem to maintain any consistency of operation, of lighting, of just cleanliness, it's just disappointing, the nicest thing I can say.

Nothing has been said tonight about any additional lighting which has been an issue in the past. There's nothing been said about how they plan on, I want to know exactly how they're planning on managing the extra material that goes in and out of the plant as far as noise mitigation, as far as, you folks are probably aware as well as I am, of the continuing problems that this site has. I really believe that the only solution to the plan would be just to enclose the whole thing and let them have their own little world where if they want it nasty, keep it nasty, but keep it out of Rotterdam. It's not the jewel on the crown. It's a poor situation.

**Chairman Denny:** We're going to do what we can to try to get them to come in and speak with them again about keeping the place clean and the noise and we will ask them again about everything we discussed tonight and try to get something settled with them.

**Ms. Strang:** And hours of operation.

**Chairman Denny:** Yes.

**Ms. Strang:** They're pitiful. They are so inconsistent. Thing is it's not just the loader that makes noise. It's glass dropping over 30' onto the concrete. People hauling, the loader hauling buckets big bins across asphalt. Do you know what that sounds like? It's just awful. It's an unhappy situation and I hope the town reviews it carefully and helps us out with this issue.

**Chairman Denny:** We'll do what we can.

**Ms. Strang:** Thank you so much.

**Chairman Denny:** You're welcome. At this time, I would entertain a motion to authorize the Rotterdam Planning Commission Chairman to enter into a contract for a TDE on this project.

**Mr. Yuille:** Mr. Chairman, I will make a motion to give the Planning Commission Chairman authority to hire a TDE for this project that should include the drainage, the lighting, and any other situations that they want to include in that.

**Chairman Denny:** Mr. Yuille made the motion. Do I have a second?

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

**Chairman Denny:** Mr. Bradt seconds the motion. Are there any questions? Please call the vote.

**Marlo Carter:** Mr. DiLallo?

**Mr. DiLallo:** Yes.

**Marlo Carter:** Mr. Yuille?

**Mr. Yuille:** Yes.

**Marlo Carter:** Mr. Severson?

**Mr. Severson:** Yes.

**Marlo Carter:** Mr. Bradt?

**Mr. Bradt:** Yes.

**Marlo Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Marlo Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Marlo Carter:** Chairman Denny?

**Chairman Denny:** Yes.

Motion carried.

At this time, I would entertain a motion for the Rotterdam Planning Commission to declare lead agency on this project.

**Mrs. Flansburg:** Mr. Chairman, I will make a motion that the Rotterdam Planning Commission declare lead agency on this project.

**Chairman Denny:** Mrs. Flansburg made the motion. Do I have a second?

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

**Chairman Denny:** Mr. DiLallo seconds the motion. Are there any questions? Please call the vote.

**Marlo Carter:** Mr. DiLallo?

**Mr. DiLallo:** Yes.

**Marlo Carter:** Mr. Yuille?

**Mr. Yuille:** Yes.

**Marlo Carter:** Mr. Severson?

**Mr. Severson:** Yes.

**Marlo Carter:** Mr. Bradt?

**Mr. Bradt:** Yes.

**Marlo Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Marlo Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Marlo Carter:** Chairman Denny?

**Chairman Denny:** Yes.

Motion carried.

**Mr. Yuille:** Mr. Chairman, I would like to make a motion that we contact the highway superintendent to have him go out there and assess our part of that process as far as the drainage along that road, if it hasn't already been done.

**Chairman Denny:** Mr. Yuille made the motion to authorize the superintendent of highway to...

**Mr. Yuille:** To request that the superintendent of highway goes out, either him or his representatives look at the situation and do whatever they need to do to correct that situation either by putting larger catch basins or digging swales, whatever they need to do.

**Chairman Denny:** Motion made by Mr. Yuille. Do I have a second?

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

**Chairman Denny:** Mrs. Flansburg seconds the motion. Are there any questions? Please call the vote.

**Marlo Carter:** Mr. DiLallo?

**Mr. DiLallo:** Yes.

**Marlo Carter:** Mr. Yuille?

**Mr. Yuille:** Yes.

**Marlo Carter:** Mr. Severson?

**Mr. Severson:** Yes.

**Marlo Carter:** Mr. Bradt?

**Mr. Bradt:** Yes.

**Marlo Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Marlo Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Marlo Carter:** Chairman Denny?

**Chairman Denny:** Yes.

Motion carried.

**Mr. Palleschi:** With that motion can I just ask or request that I be present at that time when the highway superintendent is out there so that we can look at it together?

**Mr. Yuille:** Yes, you should be there.

**Chairman Denny:** We will make sure that he contacts you.

**Mr. Palleschi:** Perfect, thank you.

**Mr. Yuille:** I agree that part of that problem out there is ours but the sand is washing across the road is coming from directly behind that building. Not to the side. Directly to the back and the sand would come out five (5) or six (6) feet onto the road like a sandbar. So it has to be coming off your property for some reason or another. Now maybe your catch basins need to be made larger or connected, I don't know how they are set up. Are they just holes in the ground catch basins?

**Mr. Palleschi:** They're dry wells that are interconnected to each other. There are, I don't know, four (4) or five (5) of them back there.

**Mr. Yuille:** Maybe they need to be looked at. We just had to clean all the dry wells in our condo development.

**Mr. Palleschi:** Maybe it's as easy as that and just cleaning those.

*The hearing concluded at 8:08 p.m.*

Next meeting is November 1, 2016.

Meeting adjourned at 8:09 p.m.

Motion to adjourn made by Mr. Bradt and seconded by Mr. Collins.

Respectfully Submitted,

Marlo L. Carter  
Planning Commission Secretary

**6NYCRR PART 617  
State Environmental Quality Review  
LISTED ACTION(S)**

**Date:** November 15, 2016

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

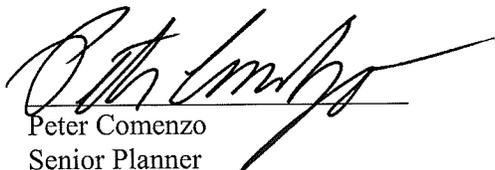
**Name of Applicant:** 31 Opus Rotterdam, LLC  
804 A Street  
Belmar, NJ 07719

**Project:** Site Plan revisions to allow for the addition of two (2) truck bays on a ±36,400 square foot recycling facility on a ± 4.33 acre parcel.

**Location:** 31 Opus Boulevard  
Rotterdam, NY 12306

**Status:** **A determination has been made by the Town of Rotterdam Senior Planner that this project is a SEQR Type II listed action under 6 NYCRR Part 617.5(c)(7). This action has been determined not to have a significant impact on the environment or is otherwise precluded from environmental review under Environmental Conservation Law, Article 8.**

**For further information contact:** Peter J. Comenzo  
Town of Rotterdam  
John F. Kirvin Government Center  
1100 Sunrise Boulevard  
Rotterdam, New York 12306  
(518) 355-7575 Extension 338

  
Peter Comenzo  
Senior Planner