

Town of Stuyvesant
Planning Board Meeting
February 23, 2026

Members in Attendance:

T. Hotaling, Chair
C. Foote
E. Allen
S. DeLong
J. Belline
M. Stasi
T. Rappleyea, Town Attorney via phone

Applicants:

Dacia Faison-Roe
Alicia Legland, Esq, Hodgson Russ/RPNY Solar
Greg Lawrence, ornithologist

As well as:

Multiple residents of the community

Members not in Attendance

H. Leiser

T. Hotaling opens with the Pledge of Allegiance. The meeting is called to order.

Call to Order: 7:00 pm

T. Hotaling asks the board members if they have had a chance to review the minutes from the December 15th and November 24th meetings.

Motion: to approve the minutes of November 24th and December 15th, made by C. Foote; seconded by M. Stasi. All in Favor. The minutes are adopted unanimously.

T. Hotaling states there is some new business on the agenda to get to before the board gets to the old business, and that new business is the application of Dacia Faison-Roe who is seeking a special use permit for seasonal special events, the nature of the events are small private dinners or simple ceremonies, property is located at 504 County Route 46 in Stuyvesant, New York. He adds, the applicant seeks to use a portion of an existing barn, the barn floor of approximately 1,500 square feet will be designated for intermittent use associated with a class two home occupation, where there will be no advertising, no ticket sales, and no anticipated increase in traffic beyond seasonal private visits. T. Hotaling invites D. Faison-Roe to explain what she would like to do.

D. Faison-Roe explains she would like to use the hayloft for small private events and photography sessions, to host small maybe dinners, maybe ceremonies, weddings and receptions, for photographers to use it as a background for photo shoots, product shoots, et cetera.

T. Hotaling clarifies that she would like to use the loft and asks the square footage, as it wasn't quite clear she was using the loft and not the lower portion.

D. Faison-Roe explains she would use the loft which is 1500 square feet.

T. Hotaling states the diagram was good, and exclaims there is a restriction in parking, which she will want to talk to K. Haberland about, because she can use 25% of surface on the property, the code has dimensions for parking and dimension requirements in the zoning code for that. He states, the applicant mentioned she wanted 20, which would be met quite easily, adding she would also want to park along the side of the barn and might have to have some in the back.

D. Faison-Roe agrees.

T. Hotaling reiterates that she would need to speak to K. Haberland about those dimensions, and the board may require very simple parking signs where those would be. He continues, the board has the dimensions for a standard car, so they'd have to know that they will fit.

He mentions that the description she provided is right out of the zoning law, so it meets it but the board does have a couple questions.

T. Hotaling asks about bathroom facilities.

D. Faison-Roe replies they would use the main residence.

T. Hotaling echoes her response and states he doesn't necessarily foresee a problem as people host parties frequently at their homes and use that. He asks what the maximum group of people she would have there.

D. Faison-Roe states 20 people.

T. Hotaling asks if she could anticipate how many events she would have.

D. Faison-Roe replies, maybe two a month between May and October, that it is very seasonal.

C. Foote observes in the narrative the applicant has 1500 square designated for intermittent use associated with a class 2 home occupation remaining approximately 800 solely for storage and asks if that 800 is in the loft.

D. Faison-Roe answers that is on the main floor.

C. Foote clarifies that the loft is solely for the photo shoots and asks the applicant what she defines as a photo shoot.

D. Faison-Roe answers maybe a band would want to shoot an album cover, individual headshots, products, if somebody wants a rustic environment for their product line, they can use the space.

T. Hotaling asks, just as a business inquiry side, if she is not going to advertise, is it mostly word of mouth, or how does she intend to advertise.

D. Faison-Roe states she will be using booking sites that photographers use.

T. Hotaling inquires, so there are venues and platforms that they can go to for this.

D. Faison-Roe replies, yes.

M. Stasi asks if there has been any assessment of the barn in terms of bringing 20 people up there with possibly catering food and all that weight; is the barn structurally sound and has she gotten any assessment from anyone that it's safe or how it would be upgraded.

D. Faison-Roe replies they've spent the last four years reinforcing and actually restoring the barn. She continues, it has a brand new foundation, interior structural components that were added about two years ago, and it is square and safe and solid.

T. Hotaling points out for those not familiar with it, the barn is right on 46 and Allendale Road, it's that maroon, red barn that's right there on the corner.

C. Foote asks where the parking would be because the area in front seems to be a very little area.

D. Faison-Roe responds that people can park in the front and along the side of the barn as well.

T. Hotaling notes the access point for parking on 46 and asks if she has two access points or one.

D. Faison-Roe answers it is one access point, but people can get to the side of the barn from that access point.

J. Belline voices concern about people trying to get out right on the corner.

D. Faison-Roe voices that maybe some signage would be helpful.

J. Belline notes the condition of the soil at that location.

T. Hotaling agrees it's all permeable soil around there, so if there is a fair amount of traffic in there, it could get fairly muddy.

D. Faison-Roe agrees that is one reason why she wants to keep it seasonal, so the warmer, drier months, so there is less of an issue. She adds, the soil's compacted around there, just from the construction they've done, as it's been filled and refilled and trucks have driven on it.

T. Hotaling notes it meets the use requirement for class two home occupation. He asks T. Rappleyea if he sees any problem with the bathroom facilities in the home being used for this or needing a requirement to maybe have a porta-potty out available.

T. Hotaling replies, for the convenience of it all, a porta-potty might be better, from a legal standpoint, no, and if the applicant wants to open up her house, that's up to her.

T. Rappleyea asks what the hours of operation are and is there music or any sound intensity.

D. Faison-Roe answers the hours of operations would be during the day, probably weekends, and noise volume would be kept low. She continues, there's no DJs, no real amplified music, maybe a little background music.

T. Hotaling observes it's typical for photo shoots, that can't be right, for the atmosphere.

D. Faison-Roe adds it would be a couple of hours of usage during the day.

T. Rappleyea advises if there is an approval, there should be a condition of approval that events end at certain time, and that there's to be no external volume increase.

T. Hotaling echoes, that would be part of the special use permit, and explains when the board grants special use permits by law, they are attached to the property, so any subject owner could use it for the exact same purpose it was approved for, and typically they would not like having overnight shoots so it would be eight to eight at night with low volume music which they will discuss in detail. He adds there are things that might come up in the public

hearing, which they will get to scheduling that, typically they take comments from it and if there are reasonable comments with the opinions of the neighbors, that can be addressed at that time, the board would discuss it and they can incorporate them into the approval. T. Hotaling asks if there are any more questions. None are heard.

Motion: to schedule the public hearing for March 23rd, made by J. Belline; seconded by S. DeLong. All in Favor.

T. Hotaling explains the public hearing is scheduled for next month and if the applicant has seen their agendas, the public hearing will typically be first in the new business, then any business after that. He adds, what they will do during that is listen to the public opinion, if any, they will go through the SEQR, and then do their portion, they may approve it that night and then consult with T. Rappleyea about the specifications for the special use permit subsequent to that, so they would do that, then send all that out and provide it to her, and states they will see her next month.

D. Faison-Roe thanks the board.

T. Hotaling states that the next item is the continuation of the SEQR for the solar project, and the need to discuss the Northern Harrier and nesting. He adds he did speak to G. Schmitt last week regarding the fact that DEC did not take jurisdiction and left it to the Army Corps of Engineers for the wetlands. He observes, they typically don't ever hear from them and didn't know if the applicant was anticipating hearing from them.

A. Legland states no, that it was just notification that the DEC didn't take jurisdiction.

T. Hotaling voices that just as a courtesy for the board, G. Schmitt is going to write a letter to them, asking them to provide us with something, and the board can provide a copy to the applicant once we have something. He adds he did mention the multiple inquiries about the permits to A. Bell.

A. Legland states she was not aware of that but can follow up with him.

T. Hotaling states that we can forward those emails to her and describes the email at length.

T. Hotaling announces that G. Lawrence is in attendance on behalf of RPNY Solar. He adds, for those who don't know, there are two issues being there are wetlands and there are Northern Harrier nesting in that area. He states, Northern Harriers are a protected species here in New York and it is something the board is concerned with and want to discuss. He voices, he doesn't know how the applicant read the letter, but he's not getting any clear understanding of how DEC is looking at this, and he has read through the applicant's memo several times that gives a summary. He states the board has been off business because of the weather, unfortunately, and that they may just simply provide that copy of the applicant's memo to DEC, asking them if it accurately summarizes the discussion from their point of view. He notes he is sure it is accurate, but since he is a retired investigator and that's what he does, don't get mad if he sends them a letter with attachment saying, is this accurate? He continues, for now, let's discuss Northern Harriers, how this fits into this project and what we need to know. He asks G. Lawrence to approach the board.

G. Lawrence states that it's not nesting, but this memo is talking about wintering habitats in the site, and ultimately, the memo summarizes a lot of what's already in the species mitigation plan that he knows the board read, adds it's been submitted to New York State DEC, that the mitigation plan has all of that information back up, the history of their consultation with New York State DEC all in the summary, and notes DEC has all read that, as they worked through this with DEC from the start of the process through now, and at this point, most of the memo summarizes that history with DEC, summarizes where they came to the understanding that there is wintering habitat at the site, and if there some questions from him in relation to the memo, he would like to help clarify that.

T. Hotaling asks how many days they were physically on the site.

G. Lawrence answers there were three observations of the species on the site.

T. Hotaling voices, he understands there were three observations, but were people or contractors for RPNY out there 20 days and only saw three or on all three days they were there, the harriers were seen.

G. Lawrence answers he cannot speak to how often other people were out on site, but knows he saw species out there, the one time that he was out there.

T. Hotaling asks if he would typically inquire to them, and how many times did his company happen to see them.

G. Lawrence observes the initial surveys were done by a different consultant that was not Tetra Tech, so he is unsure how many times they were out there exactly. He continues, it doesn't necessarily matter whether they were out there one time and saw a bird, or if they were out there 20 times and saw a bird, regardless, there would be grounds for taking an occupied habitat, which would have resulted in exactly where they are today, so whether they were out there once or whether they were out there 20 times or if they did formal surveys.

T. Hotaling interjects, that he is not questioning the methodology, but that he just wants to understand.

G. Lawrence answers that he is just trying to explain.

T. Hotaling points out that if they are there three days or 30 days, they would see them everyday as he lives about a mile west of the site and sees them every day, that Harrier Park in Stockport about 5 miles down the road is named after them, so they're very present and they've been here for a long time.

G. Lawrence explains, ultimately, they knew they didn't necessarily need formal surveys to be able to tell them what they already know, that there's harriers there. He continues, they know too, from the desktop data that they've looked at in eBird, that there's multiple observations right near the site and within the vicinity of the site, so they know that they're in the vicinity of wintering habitat specifically. He adds, ultimately it led them to the same thing where there would be take of clearly what is known as northern harrier habitat and there would be take of that habitat whether they did formal surveys or not. He states, ultimately the applicant went through, conceded that presence to DEC, and wanted to work with them to figure out what the best path forward would be and that's where he came in to help in those conversations and to help develop that species mitigation plan as well to create a benefit for the species.

T. Hotaling recalls, when the property was subdivided back in last August or a little over a year ago, in that particular area there was 150 acres with 46 all along the back of the property, and what he is trying to recall is that's a large grassy parcel the farmer's mostly hay there, and asks if they have grown corn on there in a while, as it's been quite some time since row crops left and the birds obviously benefited from it.

Altomer observes that if there were row crops, they probably wouldn't even have the conversation that it was wintering grounds.

T. Hotaling asks what the total acreage is between Stockport and Stuyvesant, and recalls they had to put in the four parcels after originally wanting three, possibly 154 to 155 acres, he doesn't specifically recall, but they wound up doing four parcels because one was kind of landlocked, one that Charlie was retaining, and they had to put a separate parcel in there, but that is all grassland now, correct? He is asking because if they put 50 acres of solar panels in there, how does this impact, not just their nesting but their hunting, how much does that impact the species and in terms of mitigating that impact, what are they talking about doing here regarding a species like that.

G. Lawrence responds, the project parcel and the impact of take is just over 27 acres, and the project itself, the footprint is much smaller than that as well, 16 and change, so Northern Harriers and other grassland bird species really have a minimum area requirement in the state, and back when he was with DEC and Brockport, they worked through a lot of literature and developed the statewide grassland bird management strategy, which is now what the DEC uses and is referenced in the species mitigation plan that the board has. He adds, basically what DEC uses to develop grassland strategy throughout the state, he worked on that team that helped develop it, and basically what that says is there's a minimum acreage requirement for grassland birds, everything shows that they're area sensitive, and that they need something that's at least 25 acres or greater to be able to nest and survive, so since that parcel dropped the amount of habitat to below that 25 acre threshold, which is again, is right at the minimum end. He continues, generally they really prefer things that are much larger than that, but that dropped that below 25 acres since the DEC considered the solar array in there not to be considered habitat, thus that would drop that under 25, so ultimately, Northern Harriers, need something that's at least that 25 acres or more to be able to use for at least wintering habitat. He notes that on the area requirement, that it's basically any field that is 25 acres or greater in the eyes of DEC, when something is viable, that's wintering or breeding for any species. He voices, in terms of breeding for the Harrier and just the parcel itself for grassland birds, since it's hayed pretty actively, hay fields are considered for grassland birds, their potential habitat, but hay fields are often act as a concept called a sink for these species, so if viable at all, typically, these sinks are where species may look at that kind of habitat and that might be suitable for it, but ultimately, due to the haying, at some point, depending on the timing of the haying, it'll potentially get rid of the nest and the potential young and everything. He adds so ultimately, if the bird tried to nest there, it would ultimately not succeed at all, so these hayfields are typically low-quality grassland habitat because of that, because they often act as sinks for these species. He voices, the other thing is since it's mowed every year, ultimately the grass is kept really short, and it can obviously grow up right before it's hayed, but generally it's shorter and much less dense than the thatch cover underneath

and grassland birds, especially Northern Harrier, do not really prefer that at all because they need something that's a little bit older field than something that's been mowed. He adds the Northern Harrier prefers something that's been mowed once every three years so there's a lot of thatch buildup for cover and nesting underneath.

T. Hotaling clarifies if G. Lawrence is saying that they are not nesting there.

G. Lawrence states it's not a suitable habitat for nesting Northern Harriers.

T. Hotaling clarifies, so if they are observed on or near the property, that doesn't necessarily mean that they're nesting on the property.

G. Lawrence exclaims that is correct, and explains harriers typically nest in New York State starting in May through, usually August is when their young will fledge, usually a little bit earlier than that, depending on the part of the state that you're in, so typically nesting happens in the summer months, as with most other birds but Northern Harriers typically are here for the winter, as is shown very clearly around the town and around the project site.

T. Hotaling describes a gray Northern Harrier he saw earlier in the day.

G. Lawrence voices how they normally hunt for mice, and typically the harriers are here for the winter, so they might arrive in October or November, forage here in the winter, they might roost in really tall grass in some places, then potentially just use it for foraging and then they'll migrate back north in the spring, typically by April. He adds the majority of the nesting in the state is up in the St. Lawrence Valley, and in the Breeding Bird Atlas, which he worked with K. Schneider on years ago, and that block was a priority block in the atlas, looking at the data on that block has a ton of coverage and a lot of effort for it, and no northern harriers were observed there or anywhere in the surrounding blocks around there. He continues, because of that and the habitat on the site not being viable due to the hay, the vegetation structure and the fairly small size, it's really at the minimum threshold for any grassland birds, let alone Harrier, which really does require large swaths of land to breed. He states that was why it was determined that there were no breeding surveys and no need for any other additional surveys.

T. Hotaling observes it seemed like, even though they haven't got there yet, that was where they headed and what they're leaning toward, to just approve an incidental take permit, but they haven't got there yet.

A. Legland states the application for the incidental take permit is not considered complete for DEC to act on it until SEQR happens.

G. Lawrence echoes that it's all considered one action.

T. Hotaling mentions for all of the pending permits, that it is understood that the board doesn't have to have them before they do them, but they do like to understand where they're at. He continues, the biggest thing was, which maybe was not quite so surprising given the climate for solar development, but after making a big deal about expanding wetlands management programs, using LIDAR and doing all that is needed, it was not expected that DEC declined jurisdiction, because when these wetlands exist on farms, they are not as concerned, because farmers know how to take care of them, but when there is a proposal for a different use for that property, and that becomes something significant, it is really surprising that they declined.

A. Legland responds that as far as the DEC, they don't expect anything more from them, that they've declined jurisdiction over the wetlands, so nothing further is going to happen there and as far as the incidental take permit, the DEC had original questions about the application in the fall, Renewable Properties responded to those questions and comments in December and they haven't gotten anything additional from DEC. She continues, they expected follow-ups, since she cannot speak for DEC, but they haven't heard anything so she expects that they're satisfied with the responses that RPNY provided towards the end of last year and her understanding is at this point, if they don't have anything else and they're just waiting for a SEQR determination in order to move forward.

T. Hotaling notes, that's all the things he has highlighted, which is most of which was sent to him, and it's not necessarily resolvable, although the board has other questions the Harrier question was a significant one that the board needed to understand.

G. Lawrence asks if he was able to help answer that question and if there was anything else.

T. Hotaling answers that it helped significantly because the assumption was, since Harriers are seen here in the area before October, around August and September, he had the impression that some may be nesting here.

G. Lawrence answers that some of the Harriers, typically after they nest those young will fledge by July, maybe early August, in the north part of the state, and typically those adults will kick the young out and once they kick them out and they actually start moving south and a lot of raptors even go north in some cases, in other species they have seen. He adds, typically in late summer, they find a lot of bald eagles that nest in the southeastern United States coming up here that are just wandering. He notes that with the Harriers, typically some of the younger birds often will start dispersing earlier like that, and he has seen where they'll directly south on the flyway from nesting grounds in southern Quebec, the northeastern part of the state, up in like the Champlain Valley and the St. Lawrence Valley, and a lot of those birds often come south starting in early fall.

T. Hotaling clarifies, their presence here is late fall through May.

G. Lawrence answers, fall through late April, and noted in the memo there was one sighting from the 80s that was within two miles of the project in May.

T. Hotaling acknowledges that footnote and he and G. Lawrence discuss a little further.

G. Lawrence states the winter presence of the birds doesn't indicate they are nesting, these birds move and migrate quite a bit, not like Blue Jays who might be around here year-round.

A. Legland states she would like to speak to a little bit about how the presence of solar doesn't impact the winter habitat.

T. Hotaling acknowledges that was his next question and asks her to go ahead.

G. Lawrence states there's quite a bit of research and there should be a paper in the next year coming out in New York State with some work done at a co-op unit at Cornell looking at solar as habitat for birds. He continues, those at Tetra Tech have done quite a bit of this work out in the Midwest, not in New York yet specifically, but they have been on some projects out there where especially when the project is built on row crops, row crops typically provide almost zero habitat for grassland birds, and typically, they're seeing bird diversity, especially with grassland birds, increase in those solar areas in studies after the solar has been put in, especially since there's typically native pollinator habitat. He notes,

so it's a different way of looking at it on the landscape of, this isn't a Walmart or giant parking lot, but really more of a change in the habitat on the landscape. He adds, he feels there's quite a bit of benefit to it, anecdotally, he asked one of my staff to find the photo which unfortunately they couldn't find, but they were working on a project up in the St. Lawrence Valley this past year and had some snipe, tons of savannah sparrows, kind of basic grassland birds, all nesting in a solar facility that was surrounded by all these fields that they're looking to develop for a larger facility in that case. He conveys they actually had up at that site a short-eared owl, which is a state endangered grassland bird, actually foraging over the solar array, because there's really tall grasses and all in there, and he feels it's more than a lot of folks have looked at on it, but it changed his mind just seeing them do that.

T. Hotaling acknowledges that some of the birds have adapted, and he feels there's a bias of perception that when a solar array is put over 50 acres of grassland that there is no obvious benefit to any of the wildlife, not just birds, but maybe to rabbits who can hide out comfortably, but there aren't very many species that would benefit from that type of coverage over a grassland, whether it's a ground species, or fowl, or whatever it happens to be, but they don't know that there aren't potential benefits because this has come up in other projects about birds landings and approaches and the most obvious answer is they'll just pick other trees, that birds will just find some other place to go as long as they're not destroying their habitat, which is what the board is concerned with and is a primary concern.

G. Lawrence answers that there's coverage there for rodents and things like that; that's what harriers eat.

T. Hotaling asks the board if they have any other questions.

M. Stasi asks to clarify in the report, (he reads the paragraph); however, while northern harriers are well documented within and in the vicinity of the project parcel during the winter, northern harriers are not known to use the project parcel to reside in the vicinity during the breeding season. He asks, did G. Lawrence say earlier that this is based on one observation out there, or is this based on data that is out there, but in terms of the field observations there was only one to their knowledge, was it one day spent, or one bird?

G. Lawrence answers there were three separate observations out there of the species.

M. Stasi asks if those were all in the winter.

G. Lawrence answers that is correct.

M. Stasi asks G. Lawrence when he was talking about the potential for the breeding to go through April or May, young ones fledging, and to that was there any sense that there should be observations to confirm that there's no breeding at all, or minimal during the breeding season?

G. Lawrence answers, that statement in addition to the observations made directly on the project site, and there's tons of other observations from other observers around that vicinity during the winter as well to back that up. He continues, there's those three data points plus a ton of other data that show that these birds are clearly here and in the surrounding vicinity in the winter, and surveys would not be warranted for the summer due to the lack of suitable habitat on the project site and due to the fact that there's been no observations anywhere in the vicinity or in the breeding bird atlas, which that block was

very well covered and was one of the priority blocks in the atlas covering the project site. He adds, because there's been no observations except for one in May back in the 80s, otherwise there have been no observations anywhere in the vicinity of the project site within two miles during the breeding season at all, so the habitat on site is not suitable for breeding Northern Harrier, nor are there any surrounding sightings. He mentions, if there were surrounding sightings, historically, it'd be a different story and there would be potential to look at this, but ultimately, that was also what spurred this process too, was the fact there's a ton of winter observations, felt they should look into this and it was corroborated by some observations on the site, but since there's no history of it, despite a lot of effort in the vicinity through publicly available data, it's not warranted.

M. Stasi thanks G. Lawrence.

T. Hotaling notes in the memo summarizing G. Lawrence's information, it is addressing the September letter with mitigation and asks if that is that is basically what they're doing with the mitigation of everything. He adds it was point by point, and it basically offered his own observations, his interpretation of science, his knowledge, and his mitigation, and one of the things on there, which is kind of a sticking point.

G. Lawrence interjects if T. Hotaling is referring to the NOIA letter from DEC.

T. Hotaling answers it is the October 7th, 2025, letter, he doesn't know if G. Lawrence specifically saw that, but it spelled out several things, and this is just one of them, the litigation stuff, wetlands, all the other stuff too, and asks if that's what he's answering.

G. Lawrence answers this memo was specific to talking about the history of observations in the vicinity, not directly to the NOIA, the response letter directly responds to that. He points out that this memo summarizes what was also a response to one of the questions, but it was more of a response to important concerns and questions that they're bringing up now with talking about the surveys, and answering basically these questions that were just asked.

T. Hotaling notes they make the point, under Section H, which they refer to Section 6.2, the habitat management and improvement, there is a sentence that says, as stated above, the appropriate windows for avoiding impacts for breeding birds are April 15th to August 15th. He asks if the applicants memo is stating that, if that may be the case, but it's not appropriate in this case because it's not suitable for nesting for them during the summer, because they're saying that they're suggesting a study, and he feels this is a perfectly legitimate sticking point for the board and that is why he would like to clarify it.

So that's why I want to clarify it.

A. Legland asks if that is for construction avoidance.

T. Hotaling refers to the letter and states this is paragraph H, section 6.2 for habitat management and improvement practices, which has several bullet points.

G. Lawrence observes this is in relation to the mitigation parcel.

T. Hotaling conveys his thought that they were addressing the fact that the observations occurred in January.

G. Lawrence states, that is not talking about the project parcel and it is not talking about where the solar array will be, but that this window they're talking about now is in relation to the species mitigation plan for the mitigation area, and the area that Renewable Properties is setting aside to create better habitat for northern harriers. He adds, in that plan, and as

partly stated in DEC's best management practices, the management of that mitigation parcel will avoid any mowing and activities from April 15th to August 15th, so that window that they're talking about is in relation to management activities at the mitigation area and that window is established not just for harriers, but for any birds in general.

T. Hotaling clarifies, it is to leave them alone territory, so there is no mowing on that area because they don't want them to disturb their nesting and their breeding, that it is a general statement and not specific to the proposed site.

G. Lawrence confirms that is correct and is in direct relation to their proposed management plan at the mitigation area.

M. Stasi asks as he is unsure if it's in the paperwork, he just hasn't seen it yet, but is there a proposed mitigation area that they are identifying and if so where's that?

G. Lawrence answers in the species mitigation plan, the proposed mitigation area is part of a mitigation complex, it's over 27 acres but it's 27 acres as part of a much larger grassland complex, so it's 27 acres with other grassland around it that's from different projects that are similar, where there is a whole large swath of land which is again preferable for Northern Harriers and will be managed under best management practices for DEC's grassland birds, so they've actually had a management plan for that property that has been approved by DEC already, even before this project, for that property for grassland birds.

M. Stasi asks if there are restrictions on that, like in perpetuity?

G. Lawrence answers, including that one, yes and it's managed by Atlantis, and notes the dates that the board is talking about in that letter are specific to the management of the mitigation area, not related to the project parcel specifically.

T. Hotaling asks, for everyone's benefit; explain to us exactly what a take permit means.

G. Lawrence answers, an incidental take permit is required if any kind of activity results in a disturbance or "take" in the eyes of the DEC and is an incidental take of any kind of habitat of an animal or plant that's listed as endangered in New York State. He continues, so that take could be habitat, a nest, or a potential take for other things that have more direct impacts on the species, but in this case, it is take of habitat.

T. Hotaling notes an incidental take means that it is not intentional on the applicant's part, and if during this they can do everything they can to mitigate that, but they aren't necessarily penalized if something happens.

A. Legland agrees and states it would be because they've been given a permit.

T. Hotaling observes it's incidental to the development of the property of the of the specific project and if it happens to happen then hopefully it's not really bad.

A. Legland states, it's within the permit, yes.

T. Hotaling clarifies, so if the applicant disturbs minimal nesting, or in this case, covering many acres with solar panels, and the birds will not likely hunt as freely over those because they will not be able to see what they're looking for in the ground, that it is a disturbance, but it's an acceptable disturbance. He adds he just wants to clarify, because they are using these terms all the time.

A. Legland states, the concept is derived from the Endangered Species Act, which is the federal law and was written a very long time ago. She voices her thought that incidental take is not the clearest of word choice and it's not always very clear for what it really means, but it is basically right, and they are required to do mitigation, there's basically a net

conservation benefit by preserving habitat somewhere else should the development be approved and result in a take, it's being either equaled out or even improved because that protected habitat has been provided elsewhere.

G. Lawrence comments he has done grass and bird work in the state for 13 years and will say professionally he worked on quite a few of these plans with the DEC and helped develop the strategy for the state. He adds, they've ultimately done a really good job on this plan, and in this case they really went above and beyond in providing a net conservation benefit for this species and voices that if he could put a dart on the best location for this mitigation area in the state for Northern Harrier, then it would be it.

T. Hotaling clarifies, that's the most acceptable one he's seen, being it's the right place with the least amount of disturbance and they're trying to go about it the right way.

G. Lawrence agrees.

T. Hotaling states they will take that under advisement for now and asks the board if they have any more questions.

T. Hotaling recalls he said that the wetlands and the harriers were the primary things and notes he has not seen a copy of the letter from G. Schmitt yet.

A. Legland states they are going to walk through those responses that they provided to him in his letter but didn't know if he wanted to send that to them as well.

T. Hotaling thanks the applicant for proposing and bringing G. Lawrence, and voices if they have that discussion, it will probably be the next meeting so they can go through their sections, start pulling up specific sections that there are no issues with and things that may have snags with, and they can work our way through them, but just basically start working through this, which may take a couple of meetings. He adds, he hopes to get through everything, that any questions everybody else has, every member of the board is free to ask whatever they want to ask and pursue something to their satisfaction, but he feels they can start getting through the sections.

A. Legland asks about G. Schmitt's letter.

T. Hotaling points out G. Schmitt's letter is a courtesy that he was to do, just so that it was a matter of record that the board asked for it, whether they ever respond to it or not they do not know.

A. Legland comments it is more as it pertains to their specific items, that they just want to make sure all those I's are dotted and T's crossed with the things that they wanted to that he sent.

T. Hotaling notes probably one other thing that they'll have to address, not to start it tonight but with everybody thinking about it, the that view shed and some of the issues with the fact that it is adjacent to an existing development, he hasn't seen this driven in to the specific way they stated to get in there yet and asks how many houses are on the access road coming in, one or two right on the edge on Pat's Lane, and adds he would like to take a spin up there himself to take a look. He continues, a typical question for this is that this is a 30-year lease on this, it is landlocked how the parcel is, because it's in two different towns, and the remaining adjoining parcels are owned by the other brothers, we have no idea what may happen to those during the life of this lease, it is also cut by the power lines, so there's a lot of things going on there and observes that development happens where property is

affordable, that there are a lot of houses near power lines and train tracks, while it may not be ideal, but his point is that whether we think it's really potential.

Altomer states that he and brother surround that whole property, so they are the majority landholders out there.

T. Hotaling states that is understood but his point is there's no reasonable way for the board to predict, even if they said so, that nothing's going to happen and if they think that at some point they want to develop some triggers where if there is development in that back in the northern part coming toward 46, that there be some obstruction, something that would provide some type of screening, and it may not necessarily be a requirement that is upfront, but in the event of a development in that area, it would trigger the need to do that, and there would be a requirement for doing it, which is not unreasonable at all.

A. Legland asks in the context of what's been provided so far for visuals, or are they thinking of a supplement to what's been provided for the visuals or is there a gap that they're seeing.

T. Hotaling voices that he doesn't think there was proposed screening on the northern part because the other brother borders the property to the north. He points out that there are multiple parcels behind it, two or three parcels, and notes he would have to pull the maps to be certain, and eludes to the fact that they should discuss a potential that at some point if there is any type of development back there, that there would be some sort of trigger and it may not be a requirement now, but 20 years to now, they may have to have to plant a bunch of trees there.

A. Legland answers, sure and adds that's something they can get to once they get through SEQR because that's more of a site plan.

T. Hotaling affirms that if nobody has any objections, they can start checking the boxes next month. He makes a quick note of the plan for the next meeting and thanks G. Lawrence for being informative to the board. He notes K. Schnider may have had more questions for G. Lawrence as she has a different perspective on grasslands, he notes people from the public might attend the next meeting, he notes G. Schmitt had some bullet points, he notes he saw the revised SWIPP application, and finalizes with as long as they see all that's happening, they can start moving forward.

A. Legland asks if the public hearing will be next month.

T. Hotaling answers that the board still needs to do part 1 for the applicant, but they can start hitting these sections to figure out exactly where they're at.

A. Legland asks if there is anything outstanding that they need to submit to the board.

T. Hotaling answers at the next meeting they will start working through part 1 and adds there is one thing he asked for that he didn't see, and that was the shelf reflective study he had asked for back in December.

A. Legland states she thought that was in the response letter.

T. Hotaling notes he thought A. Bell was going to look to see if they had an on-the-shelf plan for those particular things.

A. Legland reads from G. Schmitt's letter, he said planning board should discuss a glare analysis warranted for the installation and the response from RPNY was, they're going to check to see if they had an on-the-shelf study.

T. Hotaling recalls A. Bell stated he was going to look for an on the shelf study so they didn't have to have one done.

T. Hotaling and A. Legland discuss at length.

T. Hotaling mentions he will follow up with G. Schmitt.

A. Legland asks if anything comes up in the next couple of days or weeks, to please just let them know.

Motion: to adjourn the meeting, made by J. Belline; seconded by C. Foote. All in Favor.

Adjournment: 8:07 pm

Respectfully submitted.

Patricia DeLong

Patricia DeLong
Planning Board Secretary