REGULAR MEETING OF THE TOWN OF EVANS PLANNING BOARD WEDNESDAY, NOVEMBER 14, 2018

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Town of Evans

MEMBERS PRESENT: J. Pinter, J. McEvoy, T. Catalano, B. Bergum, M. Connors
EXCUSED: A. Sellers
ALSO PRESENT: Roberta Rappoccio, Chairwoman and Town of Evans Director of Planning & Community Development

Planning Board Chairperson, Roberta Rappoccio opened the meeting at 7:00 P.M. The meeting took place in the Court Room of the Evans Municipal Center, 8787 Erie Road, Angola, NY 14006.

Chairman Catalano: I would like to welcome everyone to the November 14, 2018 Planning Board meeting. Before we begin tonight's meeting we have some housekeeping we need to take care of. Regarding minutes from the October 24, 2018 public meeting; are there any additions, corrections or questions or may I have a motion to accept them as submitted.
B. Bergum: I'll make the motion to accept the minutes as submitted.
J. McEvoy: Second.

Vote: *All in favor. Motion carried.*

Chair: For the record and as previously stated, a Planning Board Public Meeting is conducted solely for the pre-determined action items listed on the official Planning Board Agenda as advertised. No other unrelated items may be brought before the Planning Board at a Public Meeting. That being said, if any resident wishes to comment for or against an action item listed on the Agenda, it is their right to do so when the Chair opens the meeting to the public.

The only item on the Agenda this evening is:

1. **Site Plan Review – Erie Road Super Storage** - for construction of a phased, multi-building self-storage facility and paved surface parking consisting of approximately 31,205 sf of interior storage in Phase I and a total of approximately 74,425 sf of interior storage at total build out on 11± acres to be located at 8712 Erie Road, Angola, NY 14006. Petitioner: Hogg Builders, Inc. SBL# 235.00-2-3.11.

HISTORY:

- The application for this project was filed on March 23, 2018. The Planning Board has reviewed the site plan at four work sessions: on April 11, June 13, August 29, and September 26.
- The Town Engineering Consultant in a letter dated May 2, 2018 informed Mr. Dean Hogg, the owner of the property located at 8712 Erie Road that the NYS DEC was notified of ground disturbing activity that exceed the allowable threshold without proper coverage under the State Pollutant Discharge Elimination System SPDES general permit. The Town directed the Applicant to immediately remediate the disturbance in accordance with NYS standards; and obtain a SPDEC permit.
- Consequently, the site has since been remediated to the satisfaction of the Town Engineer, and Mr. Hogg received the SPDES permit on May 17, 2018 and the project has now been able to resume the planning review process.
- In a letter dated September 19, 2018 from the Department of the Army, the ACOE deemed the wetland delineation map submitted accurately represent on-site conditions, and issued a Preliminary Jurisdiction Determination (JD). The letter further advises the Applicant to conduct a

re-evaluation by a qualified wetland biologist after 5 years from the date of this letter to ensure that any changes to aquatic resources are appropriately identified during construction of the project site.

INTERDEPARTMENTAL REVIEWS:

- **Roberta Rappoccio, Planning Director:** I approve the site plan and have no comments.
- **Town Engineer, Dave Johnson of Clark Patterson Lee:** After working with the applicant on numerous iterations of their drainage design and concept, the Town Engineer is satisfied that the proposed project will not detrimentally alter the drainage in the area.
- **Code Enforcement:** Comments pending.

OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:** The 239M Review was sent to the County on June 12, 2018. County comments were received on July 16, 2018 and they offered the following:
  - The County does not object to the Town of Evans assuming Lead Agency status for the State Environmental Quality Review (SEQR) process.
  - The Project's SEQR must be completed for all phases of development ("whole action") or risk segmentation, which is contrary to the intent of SEQR.
  - The Town's preliminary review determined the Project to be a SEQR Type 1 action; therefore, a Full Environmental Assessment Form (FEAF) is required.
  - The Project is located in an R2 district, for which it is a non-conforming use, however, ECDEP has not received a rezoning or use variance referral.
- **SEQR Coordinated review was sent to the following interested agencies on July 13, 2018:**
  - **Erie County Sewer District No. 2:** Comment was received on July 16, 2018 and the following comments were offered:
    1) The project is located in Erie County Sewer District No. 2, Town of Evans. Flow from this project is tributary to ECSD #2 and the Big Sister Creek Waste Water Treatment Plant.
    2) Sanitary sewer design shall be in accordance with Erie County Sewer District Rules, Regulations and Design Requirements.
    3) A Capacity Analysis Report may be required.
    4) I/I removal may be required.
    5) Division of Sewerage Management approval of the sanitary sewer system is required. If 8-inch or larger public sanitary sewer is proposed, Erie County Health Depart approval is required.
    6) The Design Engineer is encouraged to discuss preliminary sanitary sewer plans in advance of final sewer design.
  - **NYS Department of Environmental Conservation:** Comment was received on June 29, 2018 (attached letter was read aloud for the record by R. Rappocio, Director of Planning)
  - **NYS Department of Transportation:** No comment.

- **NYS Parks, Recreation, and Historic Preservation (SHPO):** Comments were received via the CRIS system in a letter dated April 11, 2018 (attached letter was read aloud for the record by R. Rappoccio, Director of Planning)
- **Erie County Water Authority:** No comments were received during the 30-day review period, which ended on July 13, 2018.
- **US Army Corps of Engineers:** Mr. Erik Krull, of Wetlands Investigation Co. was hired by Mr. Hogg to address the wetlands on the property. Mr. Krull received comment from USACOE on September 19, 2018 (attached letter was read aloud for the record by R. Rappocio, Planning Director)
- **Lake Shore Central School District:** No comments were received during the 30-day review period, which ended on July 13, 2018.

Chair: Are there any questions or comments from the Board before I open the floor to the applicants?

No questions or comments from the Board.

There being no questions from the Board at this time I will open the floor to the applicant and/or his representative. Please step up to the microphone, state your name and address, spelling your last name for the record.

Andrew Marino, Tredo Engineers: I presented to the Board previously back in August the original plans that had been described in 3-phases of construction starting with development 300 feet back from Erie Road as required by the GB (General Business) zoning of the site. Some of the comments that came through review had actually been rendered prior to the GB zoning being codified by the Town. For example, Erie County had not been notified on their review so obviously we are not in an R-2 zoning anymore. With that the conversations that I've had and the resulting summary report submitted for the drainage on the project between myself and Town Engineer David Johnson, have resulted in, I believe, satisfactory review of the calculations and the intent for storm water. We haven't made any changes to the intent of the ownership to provide these pre-engineered metal storage garages with red trim as previously proposed in photographs. Obviously the County requirements for sewer and water will be our next step. The curb-cut for New York State Department of Transportation (NYSDOT) application and review. I preface the application of the project with discussions with the DOT and they had simply indicated as soon as we get our SEQR they would review and approve the curb-cut location. We do have a couple utilities that the Town reviews and their installers will take care of any DOT work permits on behalf of the County. The work on our site includes driveway entrance, a water meter enclosure near the street, requisite landscaping and I will point those all out to you. Starting at the east end of the site, which is Erie Road (Route 5) and working our way west; we have the driveway entrance north and near to the entrance to the highway garage. The driveway leads again 350-feet back, actually 300-foot minimum to the first building. The driveway leads to a small parking area for visitors and a small office and very small sanitary load with very small water usage here. There is a need for private hydrants back here...(inaudible). The first phase of construction is roughly 4 buildings, next phase 4 buildings and last phase 4 buildings. The stipulations of the General Business zoning indicate that we need 10,000 sq. ft. of building for the first phase which we exceed; which is a multi-storage, overhead door, cubbies, inside storage, heating, cooling and small office all in that first building closest to the road; which is again 350' back. The requirement was to screen the back of the properties that front Erie Road, including an apartment complex. We have a small berm and a row of landscaping (evergreen trees). The facilities are paved in-between to access all your storage doors and there are also some outdoor storage spaces for boats, cars, oversize vehicles, RV's and so forth, as well. The site will be lite, there will be poles as well as building lighting all the way around for security and security fence around perimeter. As far as drainage is concerned, we try to get all of our storm water at the surface to flow into these bio-retention beds which are filtration systems necessary for NYSDEC

requirement to clean storm water before it gets discharged to waters of the state which are defined as basically any waters of the state. The second phase does the same thing transfer of roof water and storm water off of the pavements into bio-retention beds that eventually all lead to the detention basin. The dry detention basin is their intent and design and it is large enough to contain a 100-year storm event; it is 2.5 acre feet of storage. In layman's terms a 2.5-acre property with 1-foot deep of water in it. That is how much would have to be in it before it breaches; all that will be built again, in phase 1 and then it would never have to be touched again when the next phases go in. Each one of these phases routes through that basin which has now been approved by the Town Engineer because we are showing a reduction in the overall outflow from this parcel in two directions; both in the direction of the basin is outflowing, which is the dedicated ditch, as well as due west by interrupting and rerouting storm water in the prior phases, phases 2 and 3 specifically, into this basin; which again will store a 100-year event. So, in showing the reduction overall of storm water leaving the site in developed condition a pretty extraordinary amount of storm water needs to be temporarily detained and we achieve that all without disturbing any of the wetland including the areas we are trenching through wetland and/or grading through wetland, simply will be restored. We are not allowed to develop in any of the wetlands obviously. Part of the walk-thru that the biologist from the Army Corp in his letter has indicated to us that he would prefer everything would shift 20-feet to the north just to get us away from the very edges, to which we accommodated them. So, the whole picture moved 20-feet north which at this scale it is not that easy to really see that. I'm here to answer any questions in regards to the overall layout and design of the site. We have Mr. Hogg here as well to answer any operational questions in regards to construction and operation of the facility.

Chair: Do any of the Board members have any questions at this time before I open the floor to the public? There being no questions from the Board, at this time I will open the floor to the public. Please remember comments shall be held to the 3-minute time limit per person, and each person shall be limited to one time at the microphone to comment. Please be sure you are signed in and state your name and address, spelling your last name for the record.
Ed Conboy, 8168 Hillside St., Angola: I understand from what Mr. Marino said, the Town Engineer has approved the pre-development drainage that normally did not go to the large detention pond, will now go to the large detention pond post-development. So all the drainage will go to the large detention pond that is already built?
Director Rappoccio: Andy, you might want to explain that; the packet you sent us.
Mr. Conboy: This goes into a large detention pond, right?
Mr. Marino: Correct.
Mr. Conboy: So, pre-development this water did not go there; not all of it went there. But now post-development all the water...
Mr. Pinter: This is a post-development right before pre-development, if you want to take a look at these too.
Director: We just got them today which is why they weren't on the website.
Mr. Pinter: One is post-development, one is pre-development; it gives you a little bit easier understanding.
Mr. Conboy: So, all the post-development goes to this large detention pond, correct?
Director/Mr. Pinter/Mr. McEvoy: Not all of it.
Mr. Pinter: A good chunk of it is, but not all.
Mr. Conboy: I thought he just said all of it goes to this detention pond.
Mr. Pinter: If you take a look at those sheets you have in front of you, there are some good arrows that will give you a little bit of a better idea.
Mr. Conboy: So in pre-development this water went straight back and now it goes into this detention.
Director: Some of it, yes.
Mr. Pinter: Some of it.

Mr. Conboy: Not all of it? He just said all of it.
Mr. Marino: All of the paved area and building area, but there are other portions that are not.
Mr. Conboy: Primarily paved area and building area.
Mr. Marino/Director: Yes.
Mr. Conboy: It appears a lot more is now going into this detention pond which will then go into the large detention pond and then into LaDuca's property. Whereas pre-development, according to this, naturally just went straight down. So, the Town Engineer has approved this?
Chair: Yes, we got approval from the Town Engineer.
Mr. Conboy: I guess I'm surprised that he would approve taking water that normally didn't go this way and take it that way. That's my comment.
Chair: Thank you. Anybody else?
Chris Tucker, 8818 Lake Shore Rd., Angola, NY: Let me just address a few things. Mr. Marino may I ask you a few things? Is it okay to ask him? What Ed just said about this coming out and going downhill into the detention ponds and out, we just had a pretty good rain the last two weeks or week or so, and water came down from Route 5 and came down and worked its way across Melody Meadows, through the ponds, across Doc LaDuca's property down into Delaware Creek, across the road and into Delaware Creek. So before that rain Delaware Creek was 15-feet wide after that rain, and I actually watched the water go from about 8-feet wide going into the lake to about 115-feet wide in about an hour and a half (it was pretty amazing) into a sand bank, 4-foot tall and eliminated it and washed it out into the lake so that now there are actually sand islands out in the lake. What I'm doing is just giving you a preface to my question. So the question is you have this, which has all been redesigned, it used to go this way and now some comes to this detention dry basin and some of it makes its way down here. So if we're still going into those other ponds, what's going to slow it down from going down into Delaware Creek? That's my concern. I live right down there on Delaware Creek and I know all water goes downhill, I get it, I understand it. It's all going to go to the lake, but if the water is detained more through a retention pond instead of a detention pond. It would allow for the sun to burn some of it off, you would have an absorption rate. So I guess one of the questions I have is why is a detention pond used here when we've seen a detention pond, when actually what it is, is a pass through. In that last rain that we had in the last two weeks, I actually went and viewed the other two ponds; the water didn't build up, it basically ran through. So my comment to everybody here is shouldn't we be detaining more of this water? Now I understand that you, a qualified engineer, talked with the Town Engineer, we asked a long time ago when we were dealing with other issues if we could be involved in those conversations to see the incoming and the outgoing and I guess I just don't see this being a good way to go based upon the fact it's not keeping enough water up there to wash out the beach. That's one of my thoughts. Do you have any comments on that? Where am I wrong or what are you thinking?
Mr. Marino: I don't think you're wrong, but I believe the control that we are looking for is the basin that you see on our site. Controls downstream, this project is not dependent on. In discussions with the Town Engineer and how we approached any SPDES permit requirements from the NYSDEC includes what they term 'channel protection.' Channel protection means you can't put very much in this system at all to protect the banks of the ditch, the banks of the creek, the banks of the lake...that's the intent. So, it's coming out so slow at the very beginning that in a one-year event, just to throw out a number, that one raindrop is not just coming out slower than it was before, but it's coming out much later than it was before; so you're not getting that initial impact. The intent of detention is to take the brunt of that initial impact. So you would not see that big rush of storm water coming off this property; generated by this property.
Mr. Tucker: Understand. So there is Route 5 up here, there's the school and everything else and the school crosses and it crosses onto Mr. Hogg's property and it eventually goes down there.
Mr. Marino: Your referring to the other basins, those are on Hogg's property downstream again.

Mr. Tucker: I am, those have all been approved and passed the Town's approval, I get that. But my question still goes back to, I understand the theory works but what you need to do is be down on the lake to see that it's really not working. I understand by the book and by the theory and by what you have to approve and by what the Town Engineer has to improve it works. What I'm saying is being down on the brunt of it and seeing that water go from 8-feet wide to 105-feet wide in a couple of hours is absolutely amazing and I got to think there has got to be a way to slow that water down. That is really all my comments.
Chair: Anybody else?
Marie O'Connor, 8812 Lake Shore Road, Angola, NY: How many retention ponds are going on the site here?
Mr. Marino: One.
Ms. O'Connor: Just one, okay because I was informed there were two. One for whatever natural run-off would normally come down this way and one other one for what would naturally go down that way. I can tell you right now I have great concern and I think the Planning Board has heard my concerns in numerous ways of any waters being rechanneled from an area that it hasn't come from to an area that is going to go through and I don't care how many retention ponds it goes through. It doesn't work and I've experienced it for a very long time. So already I'm hearing there are two plans in site; I haven't seen these plans obviously I know I was planning on going to one of the meetings and it was canceled and I work on Wednesday. I have great concerns and would not want to see any water that is not intended, not naturally flowing this way to be re-routed to an area that is already a very sensitive area. I would like to know a little more about the retention ponds because I was told there were going to be two retention ponds for this particular site. The other thing I saw was that this was coming way back into like, as south as Cradle Avenue and Hickory Road; almost all the way down to Hickory Road. That trench, that water route that takes it back down through LaDuca's has become a river. It has been increasingly being drained and I can tell you I have communication with Town from many years ago about fill and increased drainage that's been brought down into that system. So when this was done now; I don't know how much of what had been previously done to the time that you brought the engineers in it was already re-routed from up in this north-east area. So that is my, that's sincerely a very big concern because the amount of the water coming off the back end of the property has exponentially increased.
Chair: And that has been addressed. We addressed that as a Board with the Engineer.
Ms. O'Connor: Off the back...
Chair: Yes, off the back of this property.
Ms. O'Connor: Off the back of Hickory Road?
Chair: Well, according to the Engineers that pond is going to alleviate a percentage of that water that flows off the back of this property and it will be released at a controlled manner which should only help the problem; from our understanding in talking with the engineers. It's only going to help the problem; it's not going to increase the problem.
Ms. O'Connor: Again, I've experienced the fact that things that are put on paper aren't actually come to fruition because as you say, we're dealing with the end product, at the end of the line so to speak, and we also have things we contend with so we also have the consequences. The fact that more water being brought down here, even if it's disseminated at a slower rate, it's more consistent, it's constant, it's over a longer period of time, which again attributed to the erosion down in that area, which is a great concern of mine. So again, that's another reason why additional water flow that was not going that way, and is going to be going that way over a longer period of time is my concern.
Chair: Absolutely, because you are down there.
Ms. O'Connor: It was the mid to late 1990's, there was this person who tried to develop this area and could not, they could not, because of environmental restrictions. Now I'm not understanding why the environmental restrictions are less now than they were in the 90's, because I thought they were more significant now. So, that's my other question. Why was it...

Chair: And going through proper channels with all the letters that came in and all the departments through Erie County that we went through, they are approving it. We have their letters and they don't have a problem right now with it. What they did back then I have no idea, but at this point they have all been contacted.
Ms. O'Connor: Has the DEC been contacted?
Director: Yes, we have all the letters and approvals. I want to say one thing too, and Andy correct me if I'm wrong, if you guys don't mind I just want to say, there are actually two channels. I think you may be under a misconception. This property and its channel to the creek, does not go through Melody Meadows or those retention ponds; it's before that.
Mr. Conboy: It was before though.
Director: No, it's through here. Am I right Andy?

Inaudible...interrupted by Mr. Conboy & Ms. O'Connor

Ms. O'Connor: There's only going to be one retention pond?
Mr. Marino: There is one more detention basin.
Director: Right, there's one more right, you said? One more through here...
Mr. Marino: The channels we're referring to before it gets to the LaDuca property, which is the blue line on the USGS Map...
Director: Right, one more here. This is Melody Meadows.
Mr. Marino: ...was required to be detained and the detention basin.
Director: And less is coming off the property than it used to.
Mr. Marino: And that's just the back of the Hogg Family farm basically and...
Director: Right, so it's not going through this down here, it's going through this.
Mr. Marino: ...that was a requirement of this administration, to provide that detention basin. Contrary to what is being said, we are not utilizing the capacity of that basin for this project.
Director: No. In terms of the redirection, it's within the development, so it's not being redirected. It's only within the actual built area.

Conversation ensued amongst the people in the audience.

Ms. O'Connor: But that's 11 acres.
Director: Within the built area. If you look at those maps you'll see part of it is still going the way it's supposed to...look on the maps.
Ms. O'Connor: I understand that, but within the built area there's water going this way.
Director: Right and they are redirecting it to here, but only in the built. Again, it's going to be less than what is there now.
Mr. Conboy: This is a large retention pond. The blue one goes through it.
Director: Yes. There is one for the building and one is there.
Mr. Conboy: Okay, so we agree. The building one is up here which is directing the water to this one.
Director: Yes, and then out.
Mr. Conboy: So normally before, what I was saying was before it went down here.
Director: And some still will.
Mr. Conboy: Pre-development went down here and post-development it will go over into this.
Director: We also have the calculations that show pre and post.
Chair: Is there anyone else who wishes to speak? There being no further comments I will close the floor and bring it back to the Planning Board for further questions and comments. Are there any further questions or comments from the Board?
Mr. Bergum: I'm just wondering...you guys keep saying about all the water at the end of the mouth of the Delaware Creek. Is there flooding down there in the homes areas and stuff like that or is it just the creek widening? I'm just kind of confused as to if there's actually flooding down there now.
Mr. Tucker: There is flooding on several properties; Moore's...
Mr. Bergum: Is there housing involved too or is it just like lawns?

Mr. Tucker: No, no it's garages. I don't know about the basement, but Dr. Moore's garage got flooded. He's lost a lawn mower and some damage to his cars.
Mr. Pinter: Where's that?
Mr. Tucker: It is on Lake Shore, the white garage that sits close to Lake Shore just north of where the culvert comes under and where the Lake Shore bridge goes over the creek. It's the garage that sits right out by the road.
Ms. O'Connor: And to speak to that, it's the saturation of the land. It's also been noticeable over the past few years, which I've brought forward before as well, is that the land is sinking because it's saturated. That's where it's ending up being retained where it didn't have to handle all of that before and it's been exponentially worse.
Mr. Bergum: Right, but October...
Ms. O'Connor: I'm not talking about just this year.
Mr. Bergum: I know, but I'm saying this year October was a record rainfall.
Ms. O'Connor: I'm not talking about just this year.
Mr. Bergum: But what I'm getting at though, is when you have record rainfalls you're going to have more water period whether you divert it or not, I'm just saying. Other areas have flooded because of the record rainfall. So it's just we're at the end of the line and we suffer everybody else's [rath.] I mean we are trying to do our best to slow it down but it's their land and they have the right to develop it and if we stay within our means, I think we're trying to do it right.
Ms. O'Connor: At the same time we have to be very careful too because all the properties along the Lake Shore we are under even greater restrictions; to maintain, to approve or to repair our properties.
Mr. Bergum: Excuse me, I don't understand that. You're under more restrictions?
Ms. O'Connor: Yes we are, because we're first of all the waterfront so we have the Town regulations and then we have the Federal regulations with what we are able to do and how we are able to do it; including the cost, again that goes up too because of our location. It has to be taken care of upstream.
Mr. Bergum: Again, that's what I'm trying to say. I think we're trying to address that according to the calculations; calculations don't always look that way but we got to...
Mr. Tucker: Brian one more thing when you asked if anything else was flooded, that was the direct question. The bridge that goes over from the end of Ahlers, that right now is being undermined. It's being evaluated once in awhile and I know that's a Town issue on other parts, but what I'm saying is if any of you guys or gals take a trip up there, drive up on the bridge , look to the left and look at the 24"/30" culvert...
Mr. Pinter: This is the back bridge?
Mr. Tucker: This is the green deck bridge.
Mr. Pinter: The one in the back that leads to the houses on the other side...
Mr. Tucker: Right...*inaudible*...you've got the green deck bridge there. My point is if you stand on the green bridge and look to the left, you're going to see that 24"/30" culvert pipe. The bottom of that culvert pipe is worm out because of the water. So, what's happening is the water that's coming down is going in and undermining it. It won't be long before the green bridge goes. And I know...
Director: It's on the list.
Mr. Tucker: ... it's a Town issue but you asked on the flooding question.
Ms. O'Connor: And additionally, we have to not just consider flooding, but we have to consider bank erosion there and if you look at the volume of water that's increased over the years, you can actually see where it's swirled around and it's taken off the bank on both sides because it's just...we can't have any more sustained water, even over the longer period of time. You can control the rate going, but it's over a longer period of time and it's still doing the same kind of damage.
Chair: And that's what we're trying to address.
Mr. Pinter: I believe we've been working on the drainage of this for...
Director: Months

Mr. Pinter: ...quite some time now. I believe, and correct me if I'm wrong, but the final resolution that we've discussed is that the actual water flow will be less now. I know that's hard for you to believe, but frankly it was hard for us to believe at first too, but that's one of the reasons it took so long until we got the drainage, we looked at it all a lot harder. We are told that the drainage into, and I know you're not a fan of the pond and all that, but after the project is done the drainage to the west of the project and the southwest of the project, the water flow should be reduced.
Mr. Tucker: You see now, I am a fan of the pond. I think the pond should be there. I think that after the rain we talked about, there should be some rain in that pond rather than it running through and flooding out downstream. I believe that the water is retained in the pond. Mr. Marino could probably explain the difference between a retention and a detention pond. But I'm seeing the water and I'm seeing the issue as water is running through the pond and not being detained in the pond. I get the pond, I love the pond, but it isn't keeping enough water before it allows it to go down.
Mr. Pinter: Mr. Marino, explain further if you will.
Mr. Marino: Sure, if I may. Mr. Tucker is actually referring to the Melody Meadows retrofit project, where Mr. Hogg was required to detain storm water coming from Melody Meadows and at the same time from the back of his personal property; it is two separate things though. Lake Street, being Erie County DPW actually required more detention than the Town and the State did. So we complied by making that basin larger and we had a small restriction of a 12" pipe and it goes to Lake Street.

Mr. Marino further explained how there were two separate projects and pointed out the two separate areas on the map.

Mr. Pinter: And that's a detention pond.
Mr. Marino: Yes, it is a detention pond and it is meant to dry out. So, in an overflow event if the 12" pipe can convey that water it will and that was by design. Until such time that it cannot convey that water, that's where the County came in and said we want more restriction, more volume behind it and we performed that and constructed it...that's fine now.
Mr. Tucker: Okay, I get that...
Mr. Marino: Again it's the reduction of storm water required by the ordinance and in this case a little bit more.
Mr. Tucker: Okay, before we leave Melody Meadows; there is one that goes out to Lake Street, correct?
Mr. Marino: Melody Meadows specifically goes out to Lake Street.
Mr. Tucker: Right, and there's another detention pond.
Mr. Marino: That one is north of Melody Meadows.
Mr. Tucker: Yes.
Mr. Marino: That is the pond we are talking about and that Mr. Conboy was referring to as well. Three years ago that pond did not exist and that ditch ran through without any control.

Several people talking...inaudible

Mr. Marino: This was an uncontrolled ditch.
Mr. Tucker: Agree.
Mr. Marino: Let's say it that way. Upon the Melody Meadows retrofit the Town tied in, detaining storm water, coming across the whole property from the school. The ditch that comes right through and feeds the pond behind his residence, outlets from there, and always traditionally went to Lake Shore Road. There is a mapped drainage USGS map.
Mr. Tucker: The pond to the north of the one we just spoke.
Mr. Marino: Correct.
Mr. Tucker: To that point; the other day when it was raining really hard that pond retention or detention whatever it is not holding back any water.

Mr. Marino: Correct. Let me tell you why. The reason being is that pond again is controlling off sight waters above and beyond the size of the outlet pipe. That outlet pipe as approved by the Town is a 30" diameter pipe.
Mr. Tucker: Right.
Mr. Marino: Which is a restriction compared to the open ditch that was there before.

Several people talking...inaudible

Mr. Marino: Down channeling thru a 30" pipe; it will flow thru their all day long twenty four hours a day as it has been until we get that storm event the 30" pipe can no longer handle.
Mr. Tucker.: We just had a significant rain I don't know if it was a 100 year rain or not, you could check that; but it didn't detain anything. When the invert of the outlet pipe, is at the same invert of the inlet pipe you have water running through. So I understand that it is supposed to be like a straw in a glass of water and only let so much water out. I don't know what kind of water it is gonna take to slow that down because what it didn't do; is it didn't slow the water down, it came down from there, near LaDuca's property, across underneath the road, doubled up from the receiver, went down thru the pipe, is eroding the pipe that's going into the Delaware Creek and then went out and washed out the whole beach. So my question is, I understand in theory what you are saying, my question is shouldn't that pond be containing some of the water but in fact it's not, it's just running through.
Mr. Marino: It is designed as a detention basin. To obtain a lot more than what it was before, which was zero. Let's start with zero.
Mr. Tucker: I don't dispute that.
Mr. Marino: I'm trying to answer the question by saying that by design and approval and above and beyond what was required from Melody Meadows ok, this channel does not control and it was made to be controlled and a detention basin added and greatly restricting that water from 30 to a 30" pipe.
Mr Tucker: Alright (two people talking) from zero. But what I'm saying is that whether that water ran through that open ditch or whether that water ran through that 2 - 48" pipe and through the 30" pipe we are not getting enough water retained in that pond to do any advantage; it's running through there down through LaDuca's and washing out the beach.

Multiple people talking, inaudible....

Chair: That's really not part of this project at this time.
Mr. Marino: No, but I want him to understand that we're not putting any more water into that basin on this project and he understands that. The only other thing I can add to that is that offsite water and you can call it what it is coming from the village through the school through the culvert, crossing Erie and through the Hogg property has been there a lot longer than any of this.
Ms. Sellers: And a whole lot of trees and a whole lot of other stuff.
Mr. Marino: And a farm as well. I agree with all of that.
Mr. Tucker: Everything that Andrew said the one question that I have is; Ed used to be an engineer. When we were looking at the Hogg property we were saying let's talk with the Town Engineer and Tredo's engineer. That never happened. We haven't been able to say "guys in theory it's great but the real problem is when it rains this is what happens." So in theory you guys are right, but when it rains.
Chair: And that's all the Board can go by is what the Town Engineers tell us and we have to trust them to do their job and do their due diligence and that's what we're doing as a Board.
Mr. Marino: If I may one more thing, in regards to any downstream water shed and this could be anywhere USA. Is that when you are near a large water pond, such as Lake Erie, and you are at the bottom of your water shed, traditionally you would want that water to go, you would not want to detain the stormwater because all you are doing is delaying a flood. A flood is a flood; call it what it is. To further detain, is really not good practice. You are that close to the lake, get that water out of there because more is coming. So the approach to engineering and Mr. Conboy can back this up, is that when you have a large capacity for drainage outlet, Lake Erie being, Delaware Creek is a larger outlet

that is traditionally been there from the bottom of the water shed. It wouldn't make sense to hold that back. Because you want to get rid of it to make way for the next.
Mr. Tucker: That point is understood. I live on the lake. I looked at pictures over the years of Delaware Creek. Delaware Creek used to be something where you could step across. It used to be 4'-6' wide, it would change with the rains. Now it doesn't change 4'-6' wide, it changes 20-80' wide. So what's happened? No more rain. What's happened is development; ok, so if the developments happened then we need to make the proper preventions to make sure that the water is being retained. I understand what you're saying about theory, I understand what you're saying about the Hogg property and Melody Meadows, but what I'm telling you is when you go out and you look at it, it's not working.
Chair: It's not working and that's...
Mr. Marino: You can't control previous designs.

Multiple people talking...inaudible

Mr. Tucker: You can't mistake on new ones either.
Chair: And that's why we're doing our, that's why we got the okay from the Town Engineer. We are not just taking his word at it, the Town Engineer looked the plan over. We're hoping that it all flows the way they are telling us.
Mr. Tucker: Ok so if somebody is saying "guys understand theory but you need to take a look at it..."
Chair: And that's something you can talk about to the Town Engineer. Absolutely, I would sit with the Town Engineer if I were you.
Mr. Tucker: We tried to...

Multiple people talking....inaudible

Director Rappoccio: We had one here yesterday.
Ms. O'Connor: I am extremely frustrated because I have been bringing this to the Board, to the Planning Board, to the Zoning Board, to the Town Board for years and it's been ignored and now we can't do anything about what has happened in the past. Well we do have to do some kind of mitigation when we do these things if we should even do them. I mean there are areas, specific areas, that should remain sensitive areas that should remain sensitive areas without being developed.
Mr. Marino: If I may, that's what they did to Mr. Hogg. Exactly what you are asking for...
Ms. O'Connor: In the 90's they wouldn't even allow this to be developed.
Mr. Marino: and that was a family farm.

Multiple people talking...inaudible

Mr. Bergum: He pays taxes just like you and it's his I mean it's his...
Ms. O'Connor: I understand that.
Mr: he has a right to build I mean it's within the code with our numbers and...

Multiple people talking...inaudible

Mr. Bergum: We are not ignoring it. This is why it's taken four months so far, we are not ignoring it.
Chair: We are not ignoring.
Ms. O'Connor: And that's the problem. We look at this issue individually and that individually and we don't remember any of it cumulatively.
Chair: Are there any further questions from the Board. There being no further questions from the Planning Board may I please have two (2) motions, one regarding the SEQR, one (1) regarding approval with conditions.
Mr McEvoy: Based on the Town's review of the information submitted and the guidelines of the NYS Environmental Quality Review Act, the Planning Board has determined that this the project is not anticipated to result in significant effects on the environment and that a negative declaration is hereby issued.

Mr. Pinter: I'll second.

Vote: *All in favor. Motion carried.*

Mr. Bergum: Having made this determination I would also like to move to approve the project based on the following reasons:

1) The project appears to be consistent with the Town of Evans Comprehensive Plan
2) The project will provide a benefit to surrounding communities and complement the existing mix of businesses.

And with the following conditions:

1) The applicant developer must meet all requirement of NYS Department of Transportation and copies of all correspondence and/or permits between applicant and/or his representative must be provided to The Planning and Code Enforcement Officers
2) The applicant developer must meet all requirements of the Erie County Sewer plus Water Authority and copies of all correspondence and/or permits between applicant and/or his representative must be provided to the Planning and Code Enforcement Offices
3) The applicant developer must meet all requirement of the NYS Parks Recreation and Historical Preservation Office SHPO and copies of all correspondence and/or permits between the applicant and/or his representative must be provided to the Planning and Code Enforcement Offices
4) Compliance with the Town of Evans Code Enforcement Review and Comments.

Mr. McEvoy: Second.

Vote: *All in favor. Motion carried.*

Chair: We will send a letter to the Code Enforcement Officer advising of our action tonight. You may continue your building process under their jurisdiction; the Planning Office will be happy to continue to assist you in your needs. Good luck Mr. Hogg and best wishes to you in your new business venture and continue through your construction.
Mr. Hogg: Thank you.
Chair: May I have a motion to adjourn.
Mr. Bergum: I'll make the motion.
Mr. Connor: I'll second.
Chair: Carried. Thank you for attending our meeting this evening.

Respectfully submitted by:

Debra L. Wilson

Debra L. Wilson
Secretary

Approved: 1/23/19