

1 **ESSEX PLANNING COMMISSION**

2 **April 30, 2020**

3 **86 / 90 Center Road: Site Plan Amendment**

4 Staff report prepared by Darren Schibler, Town Planner

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22 **Summary**

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24 The proposal is for a 2,886-square-foot restaurant on a greenfield site within an existing

25 shopping center property. The proposal conforms to the site plan review criteria and general

26 provisions of the Zoning Regulations. The applicant has secured a state wetlands permit for the

27 proposed buffer impact to a delineated Class II wetland. However, the proposal does not conform

28 to the B-DC design goals and objectives. The building’s roofing, windows, and entry doors do

29 not reflect the existing character of the Essex Center area; these must be revised. In addition, the

30 placement of parking between the building and the rest of the plaza is in conflict with the B-DC

31 standards and disconnects it from the streetscape and public realm; also, the configuration of the

32 drive-through does not provide significant landscaping along the project’s frontage. Ideally, the

33 building should be relocated closer to the main plaza with parking at the rear, but an acceptable

34 alternative would be to replace some of the proposed parking with civic space that achieves a

35 better streetscape transition, landscaping and site treatment, and community cohesion.

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36 **Applicant**

37 Pomerleau Real Estate
38 69 College Street
39 Burlington, VT 05401

40 **Proposal**

41 The applicant has proposed a new 2,886-square-foot drive-through restaurant within an existing
42 13.65-acre neighborhood shopping center site located at 90 Center Road, Tax Map 57, Parcel 18
43 in the Center (CTR) zoning district and the Business Design-Control Overlay (B-DC) district.
44 The site will be accessed through the existing shopping center entrance off Center Road / VT
45 Route 15; the entire plaza is known as 90 Center Road, but the proposed restaurant would be
46 addressed as 86 Center Road. Site improvements also include 21 new parking spaces, stormwater
47 infrastructure, new utility lines, direct pedestrian access from Center Road, and site landscaping.

48 Other uses within the shopping center include a grocery store, restaurant, nail salon, dry goods
49 retail, and bank. Land uses on abutting properties are generally residential (a mix of single- and
50 multi-family dwellings), with one automotive repair shop located to the west and a home
51 business (stone memorial showroom) located to the south.

52 **Background**

53 A 3,000-square foot duplex was built on the eastern part of the property sometime in the 1960s.

54 On May 6, 1970, the Town of Essex Zoning Board of Adjustment approved a shopping center
55 known as the Essex Square at what is now known as 90 Center Road. The shopping center
56 included ten retail establishments, a bank, and a supermarket. Construction was completed in
57 early 1972. The single-family house was retained as an office building.

58 Various commercial uses have been approved through zoning permits over the years, along with
59 several conditional use approvals by the Zoning Board of Adjustment over the years.

60 On June 9, 1983, the Planning Commission approved a 7,000-square foot addition to the east
61 side of the main shopping center building.

62 In 1985, the Vermont Agency of Transportation (VTrans) required installation of a traffic light,
63 left-turn lane, and two-lane access drive into the shopping center.

64 On April 9, 1992, the Planning Commission approved a 33,940-square-foot expansion to the
65 Essex Square Shopping Center in two phases for a total of 77,415 square feet. However, Phase II
66 and the western expansion within Phase I were not constructed. Regardless, this expansion
67 involved disturbance to the Class II wetland north and east of the site, for which the applicant
68 received a Conditional Use Determination by the State Wetlands Office on July 26, 1991. At that
69 time, the landowner conveyed several right-of-way deeds and easements to the Town along the
70 eastern property boundary for future roadways, recorded in the Land Records under Book 291,
71 pages 437 and 440 and slide 275.

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72 On October 5, 2000, the Zoning Board of Adjustment granted conditional use approval for a
73 grades K-2 private school and day care within the existing house on the western portion of the
74 site. The Planning Commission granted site plan approval for the school on October 19, 2000.
75 Various minor amendments and extensions were granted for this use over the years.

76 On June 6, 2002, the Zoning Board of Adjustment granted conditional use approval for a
77 restaurant located in one of the existing commercial spaces in the main shopping center building.

78 On August 13, 2009, the Planning Commission granted a site plan amendment for an 8,441-
79 square-foot addition to the main building for the current total of 64,506 square feet.

80 On September 3, 2009, the Zoning Board of Adjustment granted conditional use approval for a
81 32-seat café within the existing grocery store.

82 The former residence and school/daycare building was demolished between 2014 and 2016.

83 On August 1, 2019, the Zoning Board of Adjustment granted conditional use approval for the
84 currently-proposed restaurant with drive-through.

85 The Planning Commission held a public hearing on the current proposal on October 10, 2019,
86 during with the Commission recommended shifting the building beyond the normal setback from
87 VT-15 / Center Road to better align with other buildings in the shopping plaza. The Commission
88 also required changes to site circulation to reduce potential traffic conflicts; additional
89 landscaping and possible civic spaces on the south and east sides of the building to provide
90 visual transition with the rest of the plaza; and revised architectural designs conforming to the
91 historic preservation and design control standards, specifically gabled roofs, double-hung sash
92 windows, and paneled entry doors.

93 **I. Article V, Section 5.6 of the Zoning Regulations: Site Plan Amendments**

94 The applicant has applied for a Site Plan Amendment pursuant to Section 5.5 of the *Town of*
95 *Essex Outside the Village of Essex Junction Official Zoning Regulations*. The Zoning
96 Administrator has determined that the proposed changes qualify as Substantial Amendments
97 because the project changes to the general location of structures, internal circulation patterns, and
98 pedestrian circulation. For Substantial Amendments, Section 5.5(B) of the *Zoning Regulations*
99 (ZR) requires applicants to submit “a revised application for review and approval by the
100 Planning Commission.”

101 The applicant has submitted the following plans:

- 102 • Sheet #B1, “ALTA/NSPS Land Title Survey, Pomerleau Family, LC, Essex Square, 86-100
103 Center Road, Essex, Vermont,” prepared by Summit Engineering, dated 3/20/2018, revised
104 8/22/2018;
- 105 • Sheet #EX.1, “Existing Conditions Plan, Burger King Restaurant, Essex Square Pomerleau
106 Family, LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental
107 Engineering, dated 06/10/2019;

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- 108 • Sheet #SP.1, “Overall Site Plan, Burger King Restaurant, Essex Square Pomerleau Family,
109 LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering,
110 dated 06/10/2019, revised 02/12/2020;
- 111 • Sheet #SP.2, “Detailed Site Plan, Burger King Restaurant, Essex Square Pomerleau Family,
112 LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering,
113 dated 06/10/2019, revised 02/12/2020;
- 114 • Sheet #DT.1, “EPSC Details and Notes, Burger King Restaurant, Essex Square Pomerleau
115 Family, LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental
116 Engineering, dated 02/12/2020;
- 117 • Sheet #DT.2, “Details and Notes, Burger King Restaurant, Essex Square Pomerleau Family,
118 LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering,
119 dated 02/12/2020;
- 120 • Sheet #DT.3, “Details and Notes, Burger King Restaurant, Essex Square Pomerleau Family,
121 LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering,
122 dated 02/12/2020;
- 123 • Sheet LA-1.00, “Site Plan with Wetland and Buffer Impacts, Burger King Restaurant, Essex
124 Square, Essex, Vermont,” prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- 125 • Sheet LA-2.00, “Landscape Plan, Burger King Restaurant, Essex Square, Essex, Vermont,”
126 prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- 127 • Sheet LA-2.01, “Landscape Details, Burger King Restaurant, Essex Square, Essex,
128 Vermont,” prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- 129 • Sheet LA-2.02, “Landscape Details, Burger King Restaurant, Essex Square, Essex,
130 Vermont,” prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- 131 • Sheet LA-3.00, “Lighting Plan, Burger King Restaurant, Essex Square, Essex, Vermont,”
132 prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- 133 • Sheet LA-3.01, “Lighting Details, Burger King Restaurant, Essex Square, Essex, Vermont,”
134 prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- 135 • Sheet A-1.0, “Floor Plan, Burger King – Essex Square, Essex, Vermont,” prepared by A.H.
136 Riieil Architect, dated 06/10/2019;
- 137 • Sheet A-2.1, “Exterior Elevations, Burger King – Essex Square, Essex, Vermont,” prepared
138 by Lauer-Manguso & Associates Architects, dated 01/05/2020;

139 **(A) ZR Section 5.6(A), General Requirements**

140 **1. Conformance with the *Essex Town Plan***

141 The project complies with the following goals and objectives of the 2016 *Essex Town*
142 *Plan*:

143 **Goal 1c:** *The Town Center is a focus of concentrated growth and community life.*

- 144 *Specific Land Use Policy 3(s).10: Strip development along roadsides, instead of*
- 145 *compact development, shall be discouraged.*
- 146 *General Policy 2: Economic growth shall be diversified with development*
- 147 *occurring in and around the Town Center...*
- 148 *Specific Policy 2(S).1: Infill development within existing industrial and commercial*
- 149 *zoning districts shall be promoted.*
- 150 *Goal 3c: A community that is served by varied modes of transportation with*
- 151 *automobile use balanced by increased availability of public transit, sidewalks, and*
- 152 *multi-use trails.*
- 153 *General Policy 7: Standards for resource protection may be more relaxed inside*
- 154 *the sewer service area, where higher concentrations of development are desirable...*

155 **2. Dimensional limitations and provisions of the Zoning Regulations**

156 This project is located in the Center (CTR) district as well as the Business Design-
 157 Control Overlay (B-DC) district, and must conform to the standards listed in Tables
 158 2.8 and 2.16 of the *Zoning Regulations*.

159 **(a) Table 2.8, Center (CTR) District Standards**

160 **i. Purpose**

161 The project reflects the purpose of the CTR district in that it exhibits a land
 162 use that meets the needs of the community’s social and economic center at a
 163 scale that reflects its historic character and scenic resources.

164 **ii. Permitted and Conditional Uses**

165 Restaurants are conditional uses within the CTR district; the proposal received
 166 conditional use approval from the Zoning Board of Adjustment on August 1,
 167 2019.

168 **iii. District Dimensional Requirements**

169 The proposed project generally conforms to Table 2.8(D), Dimensional
 170 Requirements of the CTR district, as noted below:

Dimensional Requirements	Required	Proposed
Minimum Lot Area – Nonresidential	10,000 sf	597,594 sf
Minimum Lot Frontage	75 ft.	1,104 ft.
Minimum Front Setback (from ROW)	30 ft.	(Burger King) 76 ft.
Maximum Front Setback (from ROW)	40 ft.	(Burger King) 76 ft.
Minimum Side Setback	10 ft.	(TD Bank) 35.8 ft.
Minimum Rear Setback	15 ft.	(Price Chopper) 151.6 ft.
Maximum Lot Coverage – All	70%	48.3 %
Maximum Height	40 ft.	22 ft.

171 Though the proposed building lies outside the required front setback, this is
 172 allowed under ZR Section 2.16(E)(7), as reviewed in Finding I(A)(3)(c).

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iv. District Development Standards

Provision (1) of the CTR district development standards states that certain commercial uses may not contain more than 2,000 square feet of floor area. The proposed restaurant as well as the existing grocery store (Price Chopper), bank (TD Bank) and retail store (Family Dollar) exceed this limitation; however, they are within a larger neighborhood shopping center use, which is covered under provision (3).

Provision (3) states that existing neighborhood shopping centers, including the property in question, can contain no more than 90,000 square feet of floor area. With 72,234 square feet of total building floor area proposed, the project would not exceed this requirement.

Provision (5) states that ingress and egress to Center Road shall be kept to a minimum by limiting direct access. The new restaurant will conform to this provision by using the shopping center’s existing single consolidated access.

Provisions (2) and (4) of the CTR district development standards are reviewed in Findings I(A)(3)(b)(i) and I(A)(3)(b)(iii), respectively.

3. Table 2.16, Business Design-Control Overlay (B-DC)

(a) Purpose, Goals, and Objectives

The purpose of the B-DC is to create a coordinated visual appearance for the Essex Center area and applies all uses other than single-unit dwellings, two-unit dwellings, accessory dwellings, and agricultural uses. The B-DC standards apply in addition to the requirements of the underlying zoning district, allowed uses, and dimensional standards.

The proposal meets the general purpose and some of the goals and objectives of the B-DC, but does not meet goals for architectural compatibility and coordination of building placement. These criteria are evaluated through the district design requirements.

(b) Design Requirements for all B-DC districts

i. Relationship of Buildings to Surrounding Areas

The building is appropriately scaled to the site and neighboring structures. Also, by providing direct pedestrian access from the street with a shared vehicular access, the building achieves a desirable relationship with the Center Road streetscape while ensuring safety of movement.

However, the placement of the building approximately 180 feet away from the plaza’s main building does not match the spacing of the bank on the opposite side of the plaza, which is approximately 120 feet. This is in conflict with ZR Table 2.16(E)(4) and, combined with the heavily-landscaped island, visibly

210 separates the proposed restaurant from the other parts of the plaza and does
211 not accomplish a desirable transition with that east-facing streetscape.

212 If the building were placed closer to the main circular access drive through the
213 shopping center, it would better reflect the existing development pattern and
214 through its placement around a central plaza. It also would encourage more
215 pedestrian pass-by traffic at other businesses within the plaza, enhancing
216 economic stability and stabilizing property values. In addition, the drive aisle
217 between the building and the plaza could be eliminated to reduce the site's
218 footprint (and remove any impacts on the wetland buffer and open space west
219 of the plaza), or repurposed as a small civic space (green, plaza, or pocket
220 park). This type of treatment is suggested in the 1986 design control standards
221 and would create a better transition with the streetscape, encourage a
222 pedestrian-friendly environment, and enhance the center's sense of
223 community by creating an outdoor social gathering space.

224 **ii. Landscaping and Site Treatment**

225 Landscaping and lighting are fully reviewed in Findings I(F) and (G), and the
226 B-DC standards mirror site plan review standards in these regards. The
227 addition of landscaping around the stormwater treatment area on the revised
228 plans, as well as retention of existing trees, improves the site's visual
229 appearance from VT-15 / Center Road. Though the added landscaped island
230 east of the building provides sufficient screening and enhancement of parking
231 areas, this landscaping could be expanded and/or redesigned as useful civic
232 space if relocated between the building and the parking area, and if the extra
233 drive aisle were eliminated.

234 **iii. Building Design**

235 *The Historic Preservation and Design Control Standards for Essex Center*
236 *and Fort Ethan Allen (1986)* emphasize that conformance to early nineteenth-
237 century architectural style is not required; however, new buildings should
238 reflect this character. Specifically, new construction should be residential in
239 style with a maximum height of 1.5 to 2 stories with first floor levels at grade.
240 Roofs should be gabled with orientation to the street or common spaces and
241 roof overhangs and cornice treatments. Windows should be double-hung sash,
242 and panel entry doors should reflect existing styles. Exterior walls should be
243 faced with horizontal clapboard siding or brick.

244 The building elevations shown in Sheet A-2.1 indicate that the building will
245 be approximately 1 story, and its limited floor area reflects the residential
246 character of the area. The elevations show the use of primary façade materials
247 that are equivalent to brick and horizontal clapboard siding, with tan as the
248 primary color and accents of dark brown siding on the pediments and light
249 brown brick veneer around the foundations and east entry.

250 However, the roof is flat except for four irregularly-spaced pediments that
251 slightly above the roofline, only two of which are gabled. Though this draws
252 upon elements of the entablature of the plaza's main building, the
253 predominantly flat roof of the proposed restaurant fails to achieve the same
254 effect as the appearance of dormers on the approximately mansard style of the
255 main building, and certainly not of the gabled and hipped roofs of other
256 buildings in the Center. Also, the windows are asymmetrically paneled, not
257 double-hung sash, and the entry doors are fully glazed, rather than paneled in
258 a traditional style.

259 Finally, mechanical equipment and waste storage are located out of public
260 view at the north and east sides of the building. There appears to be some
261 form of enclosure, but the applicant has not provided information on its
262 materials or appearance. The enclosure must fully screen its contents and must
263 match the materials and style of the proposed building, specifically: tan or
264 dark brown horizontal siding and/or matching color brickwork.

265 **iv. Access and Parking**

266 The site's access is provided through an entry from Center Road / VT Route
267 15 that is shared with the other buildings in the shopping center. However,
268 given the existing layout of the plaza, parking is not located exclusively at the
269 rear of the building. Given this, streetscape transition and engagement with
270 the public realm take priority to better enhance community cohesion.
271 Relocating the building closer to the plaza, eliminating the extra drive aisle,
272 and placing the landscaping between the new parking aisle and the building
273 would accomplish this.

274 **v. Signs**

275 The applicant will submit a separate sign application after the project receives
276 final approval; however, initial façade signs depicted on the elevations appear
277 to be in conflict with the requirements of the B-DC and ZR Section 3.10.
278 There are multiple signs proposed on the south and east elevations, where
279 only one is allowed, and the total area of the proposed signs on the east
280 elevation (105.87 SF) exceeds the maximum allowed (82.5 SF) based on the
281 façade area per ZR Section 3.10(F)(5)(b). Finally, it is unclear whether the
282 proposed sign lighting is indirect or reverse-channeled as allowed, or
283 internally-lit, which is prohibited (including on the proposed menu boards).
284 These conflicts must be resolved upon application for sign permits, at which
285 time the Zoning Administrator also will determine whether the east (plaza-
286 facing) and west (drive-through) elevations qualify for additional façade signs.

287 **(c) B-DC design requirements for the CTR District**

288 The height, orientation, access, and exterior façade design and materials of the
289 proposed building meet the specific design requirements of the CTR district, as
290

291 reviewed in Finding I(A)(3)(b). As directed by the Planning Commission, the
292 building was relocated outside the normal setback of 30-40 feet to better match
293 the setbacks of adjacent buildings, as provided under Table 2.16(E)(7).

294 However, the location and spacing of the building is inconsistent with adjacent
295 buildings elsewhere in the plaza, and the roof style is not compatible with other
296 roof styles in the district.

297 **4. Protection of public health, safety, and welfare**

298 The proposed project will not impact public health, safety, or welfare. In an e-mail
299 dated July 8, 2019, the Police Chief concurred with the Fire Chief’s concerns
300 regarding site circulation, emergency access, and pedestrian safety. These are
301 reviewed under Findings I(C) and I(I).

302 **5. Outstanding violations**

303 The property does not have any outstanding zoning violations.

304 **(B) ZR Section 5.6 (B), Natural and Scenic Features**

305 The *Zoning Regulations* state that “site layout and design, to the extent feasible, shall
306 incorporate and protect significant natural features as identified on the Significant
307 Features and Water Resources Maps contained in the Town Plan of record or through site
308 investigation.” This is evaluated through the following criteria:

309 **1. Topography**

310 The *Zoning Regulations* call for minimal changes to a site’s topography and
311 vegetation, specifying that a site “shall be planned to retain, insofar as possible, the
312 natural contours and to conserve the natural cover and soil.” Most of the parcel is
313 already developed as a shopping center, and the western and northern parts are
314 generally flat and open. Minimal grading would occur to level the site for the
315 restaurant.

316 **2. Steep Slopes**

317 The site does not contain any slopes greater than 15%, and none would be created by
318 the proposed development.

319 **3. Surface Waters and Wetlands**

320 The applicant’s engineer has delineated the boundaries of a Class II wetland that
321 extends through the northwestern portion of the parcel. The proposed building site
322 would impact approximately 3,697 square feet of the Class II wetland buffer as well
323 as a 285-square-foot area of Class III wetland, for which the applicant has secured a
324 state Individual Wetland Permit (#2013-010). However, as noted in Finding I(A)(3),
325 the entire site could be shifted and rearranged so as to have no wetland buffer impact.

326 There are no surface waters on the site, though existing stormwater drainage
327 discharges to a tributary to Alder Brook through a culvert under Center Road.

328 **4. Renewable Energy**

329 The applicant has not proposed utilization of renewable energy at this time. The
330 proposal would not impact the ability of neighboring properties to use renewable
331 energy, as it would not create light or wind shade over property lines.

332 **5. Open Space**

333 The proposed building would be located within an open meadow that is currently
334 maintained as lawn, adjacent to a Class II wetland. However, the building is clustered
335 with the existing development and leaves a significant portion of the western portion
336 of the property open and undeveloped, and there are no scenic views beyond the
337 meadow due to topography and vegetation.

338 **(C) ZR Section 5.6 (C), Access**

339 Pedestrian and vehicular access to the site must meet applicable design standards in the
340 *Zoning Regulations* and Public Works specifications. The Planning Commission can
341 impose conditions related to on- or off-site improvements meant to mitigate the impact of
342 traffic, or to maximize pedestrian and vehicular safety.

343 Access to the site would be provided through an existing consolidated entry to the
344 shopping center off Center Road / VT Route 15 at a controlled intersection with
345 dedicated left- and right-turn lanes. Vehicles would proceed around the perimeter of the
346 main parking area to reach the restaurant's parking area and drive-through.

347 The applicant's engineer has provided a full traffic impact assessment indicating that the
348 new building will have a traffic volume of 94 vehicle trip ends (VTEs), but traffic
349 volumes and delays on VT Route 15 will be minimally impacted, since most VTEs
350 presumably will draw from existing traffic through the area.

351 Pedestrian and bicycle access are afforded via sidewalks along Center Road and
352 crosswalks at the traffic light at the shopping center's entry. Green Mountain Transit's
353 Silver Loop line provides 30-minute peak hour service along this section of Center Road.

354 Throughout the project's review, the Police and Fire Chiefs have expressed repeated
355 concerns about the location of the stop bar for the northbound left-turn lane on VT Route
356 15 / Center Road into the plaza. Originally, the stop bar was located at the intersection,
357 but because of the intersection's geometry, large delivery trucks exiting right
358 (westbound) from the site were required to cross into the northbound left turn lane to
359 execute their turns, resulting in unsafe traffic conditions. The left-turn stop bar was
360 relocated approximately 30 feet before the intersection in 2010, but during a 2018
361 repaving project, the bar was moved back to the intersection. The applicant coordinated
362 with VTrans to move the stop bar back 30 feet as of December 2019; however, the Fire
363 and Police Chiefs concerns over intersection safety remain.

364 In a memorandum dated August 2, 2019, Public Works staff stated that review of impacts
365 to traffic volume is under the jurisdiction of the Vermont Agency of Transportation
366 (VTrans) because Center Road/VT Route 15 is a state highway. Public Works

367 recommended that the applicant provide a letter of approval from VTrans prior to
368 issuance of a building permit. In an e-mail dated March 16, 2020, the applicant provided
369 certification from VTrans that the stop bar was in its properly permitted location.

370 **(D) ZR Section 5.6(D), Site Circulation**

371 The *Zoning Regulations* require the Planning Commission to consider on-site vehicular
372 and pedestrian circulation and allow the Commission to impose conditions to ensure
373 adequate circulation. The Planning Commission also must consider safety and
374 accessibility, as required by the Americans with Disabilities Act.

375 Passenger vehicles destined for the restaurant would proceed left (west) from the main
376 entrance around the perimeter of the main plaza to reach the site. The proposal includes
377 extending the plaza's parking area westward, thus widening an existing drive aisle to 31
378 feet, as well as adding a 25-foot-wide two-way aisle between the proposed building and
379 the existing drive aisle, separated by a landscaped island. New parking located on the east
380 side of the building would be perpendicular. Curbed islands and bulb-outs would be
381 located near the entrance to the drive-thru, located on the north and west sides of the
382 building. An 18-foot-wide one-way aisle will provide access to and separate the 12-foot-
383 wide drive-through lane from 60-degree angled parking located to the west of the site.
384 Finally, additional signage identifying the major delivery truck route (which runs
385 counter-clockwise around the main parking lot and rear of the grocery store building) will
386 be added to reduce conflicts with large vehicles.

387 The aisle widths meet or exceed the standards required under ZR Section 3.9(A)(1) and
388 turning angles are sufficient to accommodate anticipated vehicular traffic, including
389 emergency vehicles. Fire safety is reviewed in more detail in Finding I(I). However, the
390 extra two-way aisle providing parking east of the building creates a dangerous
391 intersection at the drive-through entrance, where traffic may enter from three directions,
392 with two long pedestrian crossings. This condition would be avoided by removing the
393 extra drive aisle between the building and the landscaped island, with new parking
394 located on the existing drive aisle and separated from the building by the landscaped
395 patio.

396 Pedestrians entering from the sidewalk on Center Road have one crosswalk at the exit of
397 the drive-through, which includes a stop sign and bar for vehicles, before reaching the
398 restaurant building. Pedestrian access from the rest of the plaza is provided through
399 sidewalks surrounding the restaurant which connect to crosswalks across parking aisles
400 and service lanes to the sidewalk in front of the main shopping center building. All
401 sidewalks and crosswalks should be constructed to ADA standards.

402 In a memorandum dated August 2, 2019, Public Works expressed concern over the
403 queuing patterns at both the signalized entrance to the plaza and the internal four-way
404 intersection located just north of the entrance. In response, the applicant submitted
405 revised plans showing a hashed "do-not-block" area covering the internal four-way
406 intersection, as well as additional directional signage to improve internal circulation.

407 Snow storage is shared throughout the shopping center, with three locations (one on the
 408 west side of the main building, one to its rear, and one on the easternmost portion of the
 409 site). There appears to be adequate space for snow storage.

410 The proposed restaurant includes a waste enclosure on the north side of the building,
 411 which would face east towards the sidewalk and parking area. This may pose a challenge
 412 for waste hauler pickup, since trucks would need to front-load across the sidewalk.
 413 Therefore, the waste enclosure should be relocated to the northwest side of the building
 414 to allow truck access via the drive-through, or else the sidewalk should be designed with
 415 a mountable curb at the existing location.

416 **(E) ZR Section 5.6(E), Parking**

417 Parking must be provided in accordance with Section 3.9 of the *Zoning Regulations*, and
 418 no more than 50 percent of a front-yard setback can be devoted to parking.

419 ZR Section 3.3(B) states that the parking space requirements for a restaurant with drive-
 420 through are 1 space for 100 square feet of gross floor area, plus 1 space for every 4
 421 outdoor seats, plus 6 queuing spaces for the drive-through. With 2,886 square feet of
 422 floor area and no outdoor seating, the proposed restaurant would require 29 parking
 423 spaces in total and 6 queuing spaces. Under ZR Section 3.9(H), 2 of the parking spaces
 424 must meet ADA accessibility standards, of which one of those must be van-accessible.

425 As part of the proposal, 20 existing paved parking spaces along the western edge of the
 426 plaza would be eliminated, but would be replaced by several new parking areas totaling
 427 31 spaces for a net gain of 21 spaces, 2 of which would meet the ADA van-accessible
 428 standard. In addition, 12 queuing spaces would be provided. This meets the requirements
 429 of ZR Section 3.3(B) and ZR Section 3.9(H) for the restaurant alone. The table below
 430 shows the parking requirements for the entire shopping center by use; calculations for the
 431 required number of spaces are rounded up.

Business (use type)	Parking Ratio (SF)	Floor Area (SF)	Required spaces
Burger King (restaurant)	1 space / 100 SF plus 1 space / 4 outdoor seats	2,886 SF	28.86 → 29
Price Chopper (supermarket)	1 space / 150 SF	49,706 SF	331.37 → 332
Vacant (general retail)	1 space / 250 SF	3,500 SF	14
Family Dollar (general retail)	1 space / 250 SF	8,000 SF	32
Good Taste (restaurant)	1 space / 100 SF plus 1 space / 4 outdoor seats	1,100 SF	11
Little Caesar's (restaurant)	1 space / 100 SF plus 1 space / 4 outdoor seats	1,100 SF	11
Lee's Nails (personal services)	1 space / 200 SF	1,100 SF	5.5 → 6
T.D. Bank (bank with drive-thru)	1 space / 200 SF	2,655 SF	13.275 → 14
Total	appx. 1 space / 160 SF*	72,234 SF	448.01 → 449

432 *Calculated from number of required spaces / actual floor area, rounded up

433 Though the proposed number of spaces for the overall shopping center (346) is far below
434 the required number of spaces under ZR Section 3.9(B) (449 spaces), the shopping center
435 has not experienced under-parking issues with the current business uses. Because the
436 additional parking for the restaurant exceeds what would be required as a stand-alone use,
437 it appears the proposed parking scheme will adequately serve the development as
438 required under ZR Section 3.9(I). The number of spaces provided for the overall
439 shopping center which meet ADA standards (14, of which 11 are van-accessible) also
440 exceeds what is required under ZR Section 3.9(H) (8 spaces, one of which must be van-
441 accessible).

442 At the public hearing on October 10, 2019, the Planning Commission encouraged the
443 applicant to reduce the number of parking spaces in order to improve site circulation and
444 safety. Further reduction by eliminating the 14 spaces to the west of the proposed
445 building is strongly encouraged.

446 Sheet SP.2 shows that bicycle parking would be located on the southern side of the
447 building, near the primary pedestrian entrance facing Center Road, which is a prominent
448 and convenient location. A bicycle rack detail is provided on Sheet LA-2.02.

449 **(F) ZR Section 5.6(F), Landscaping and Screening**

450 The Planning Commission can require landscaping to achieve the objectives of the
451 *Zoning Regulations* and the *Town Plan*. The landscaping objectives in the business
452 districts include relate to street trees, parking areas, and a planting strip.

453 **1. Street Trees**

454 The landscaping plan on Sheet LA-2.00 involves retaining existing mature street trees
455 along Center Road, comprised of a mix of littleleaf linden and black locust. If and
456 when these trees are ever replaced, the applicant should consider using a greater
457 diversity of species to reduce the risk of a single pest or disease affecting the entire
458 canopy, as recommended in the *Town of Essex Street Tree Management Plan (2018)*.

459 **2. Parking Areas**

460 A littleleaf linden is provided in each of the three proposed parking lot islands, which
461 meets the requirements of Table 5.1(B) while maintaining a clear visual area for
462 motorists and pedestrians. While these are perfectly suitable trees for the site and
463 match the existing aesthetic of the plaza, the applicant should consider planting
464 alternative species such as hackberry, oak, red cedar, or gray birch to better diversify
465 the plaza's species mix and protect against devastation by a single pest or disease.

466 **3. Planting Strip**

467 The row of mature street trees and stockade fencing provides an attractive planting
468 strip along the site's frontage, and the stormwater treatment areas will be landscaped
469 with a mix of white spruce and shrubs that thrive in hydric soils. However, the
470 planting strip is less than thirty feet in depth due to the location of the drive-through
471 exit and utilities; eliminating the drive-through could allow for a better planting strip.

472 **(G) ZR Section 5.6(G), Lighting**

473 The *Zoning Regulations* call for an exterior lighting plan that provides “site lighting and
 474 lighting levels that are appropriate for the anticipated activities on the site and the
 475 property’s surrounding context, and that maximize the efficiency of site lighting and
 476 energy demand, while minimizing up-light glare, and unnecessary spillover light or light
 477 diffusion onto adjacent properties.”

478 In general, the lighting plan on Sheet LA-3.00 generally meets the standards of ZR
 479 Section 5.6(G) and provides sufficient lighting for the anticipated activities while
 480 blending with the surrounding context and maximizing efficiency. Though the uniformity
 481 ratio exceeds 5:1, the photometric grid demonstrates sufficient coverage in the areas of
 482 highest use with a maximum illumination of 3.30 foot-candles. Some light spillover onto
 483 Center Road / VT Route 15 would occur, but it would in fact improve lighting along the
 484 roadway by illuminating a public sidewalk at a pedestrian entrance to a major destination.
 485 The Planning Commission must provide a waiver under ZR Section 5.6(G)(5) to allow
 486 this light trespass.

487 **(H) ZR Section 5.6(H), Utilities and Services**

488 **1. Water Supply and Sewage Disposal**

489 In a memorandum dated August 2, 2019, Public Works stated:

- 490 a. The Town Square Shopping Plaza, inclusive of the bank, grocery store building and
 491 the existing lot known as 86 Center Road are within the Town of Essex Sewer core,
 492 and currently have purchased and unpurchased sewer allocation assigned to the
 493 complex. The table below breaks down the existing water and sewer allocation for
 494 each unit / use within the complex.

Current Use	Water Allocation (GPD)	Sewer Allocation (GPD)
Price Chopper	4089.3	4089.3
Vacant (3,500 SF)	140.0	140.0
Family Dollar	320.0	320.0
Good Taste Restaurant	472.0	420.0
Little Caesars Pizza	300.0	300.0
Lee Nails	30.0	30.0
TD Bank	75.0	75.0
86 Center Road (proposed restaurant)	0.0	0.0

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Existing Allocation Totals		
Total Allocation used	5426.3	5374.3
Purchased Allocation	6663.0	6611.0
Unpurchased Allocation	255.0	255.0
Reaming Allocation		
Available Purchased	1236.7	1236.7
Available Unpurchased	255.0	255.0
Total Available	1491.7	1491.7

- 496 b. The applicant’s engineer has not provided the correct water and sewer calculations
 497 for the proposed restaurant. Table 10.12.380 of the Town’s Water Use Ordinance
 498 lists restaurants, serving three meals a day as having a domestic water and sewer
 499 demand of 30 GPD per seat. Also, the applicant’s engineer provided calculations
 500 for water and sewer on Sheet SP.1 using 60 Seats for Water and 62 Seats for Sewer.
 501 This review assumes that the applicant is requesting 62 seats. The proposed
 502 restaurant will require a total of 1,860 GPD of both water and sewer allocation. As
 503 noted above, the applicant has 1,491.7 GPD of existing water and sewer allocation
 504 available for this project. An additional 368.3 GPD will be required for this
 505 proposed project.
- 506 c. The applicant will be required to apply for additional sewer allocation. The total
 507 additional sewer allocation required for the proposed restaurant is 368.3 GPD. This
 508 amount does not meet the threshold for Selectboard approval and can be approved
 509 administratively.
- 510 d. The sewer and water connection fees are provided below. In addition, if the fee
 511 schedules changes, then the fee charged shall be the fee in effect at the time of
 512 submittal for a building permit. The \$1,000.00 base connection fees for both water
 513 and sewer have been waived due to the pre-existing connections from the previous
 514 structure located on the site.
- 515 i. Water: $(368.3 \text{ GPD} + 225.0 \text{ GPD}) \times \$5.73/\text{gallon} + \$0 = \$ 3,399.61$
 516 ii. Sewer: $(368.3 \text{ GPD} + 225.0 \text{ GPD}) \times \$10.30/\text{gallon} + \$0 = \underline{\$ 6,110.99}$
 517 iii. Total = **\$ 9,510.60**
- 518 e. Recent hydrant flow testing confirms that there is adequate domestic water pressure
 519 for the proposed building.
- 520 Public Works also provided several conditions of approval for the design of water and
 521 sewer infrastructure, which are listed under the proposed conditions of approval.
- 522 **2. Stormwater Management**
- 523 The applicant’s engineer described the stormwater system in the project narrative
 524 dated June 21, 2019:

525 *The project as it currently exists and is built out per original Phase I & II will*
526 *continue stormwater permitting coverage under State General Permit #3433-*
527 *9010. The 2019 project expansion will require a new State General Permit. For*
528 *this new permit refer to the Stormwater Narrative and Design details on Drawing*
529 *DT.2 (SMM 5 of 6). The area of disturbance is calculated at 1.42 acres and as*
530 *such the project will require a State Erosion Prevention and Sediment Control*
531 *Plan as well as adhere strictly to the requirements of the Town Stormwater*
532 *Ordinance and Small Site Erosion Appendix A. See Drawing DT.1 (SMM 4 of 6).*

533 In a memorandum dated August 2, 2019, Public Works staff provided several design
534 changes and conditions of approval, which the applicant has corrected or met. Public
535 Works also stated:

536 a. The Essex Square Shopping Center will be subjected to the State Stormwater
537 General Permit 3-9050 which will require any parcel with 3 or more acres of
538 impervious surface to upgrade the existing stormwater system to meet certain
539 standards. The proposed project will add approximately 0.72 acres of
540 impervious surface to the current 7 acres of impervious surface on the site.
541 While the permit has not been issued and no action is required at this time,
542 Public Works would like to make sure the applicant is aware of this future
543 requirement.

544 c. Public Works recommends extending erosion matting on the slopes around
545 Sand Filter 1 to the overflow channel for stabilization.

546 **3. Utilities**

547 In addition to water, sewer, and stormwater infrastructure, new underground gas and
548 electric lines are proposed on the west side of the new building; these will not impact
549 existing or proposed landscaping.

550 **(I) ZR Section 5.6(I), Fire Protection**

551 As noted in Finding I(D), aisle widths and turning radii are sufficient to allow access by
552 emergency vehicles, both to the proposed building site and to the entire shopping center.
553 Fire lanes are shown on the site plans running along the east-west drive in front of the
554 main grocery store building, as well as parallel to the drive-through on the west side of
555 the new building, as recommended by the Fire Chief in an e-mail dated July 5, 2019.

556 In e-mails dated September 10 and 11, 2019, the Fire Chief stated that the fire lane
557 around the north and west sides of the proposed building must be at least 20 feet in width
558 to allow space for the outriggers on the Town's ladder truck. In an e-mail dated
559 September 11, 2019, the applicant responded that there is sufficient 20-foot width for fire
560 lanes in these locations if the concrete surfaces of the drive-through are included. Though
561 there appears to be curbing separating the two surface types, the applicant confirmed that
562 there will be no curbing at these locations, which will allow more than sufficient space
563 for the ladder truck and outriggers.

564 **II. Additional Findings by the Planning Commission**

- 565 • The Planning Commission finds that the light spillover onto Center Road / VT Route 15
566 is advisable in that it illuminates a sidewalk on a busy stretch of road at a pedestrian
567 entrance to a major destination. Therefore, the Planning Commission waives the
568 requirement prohibiting light trespass of two-tenths (0.2) foot-candles five feet beyond
569 the property line into the Center Road / VT Route 15 right-of-way.

570 **III. Proposed Conditions**

- 571 1. All conditions from previous approvals shall remain in effect except as modified herein.
572 2. All construction shall be in conformance with the plans listed above as may be amended
573 herein.
574 3. Prior to the issuance of a zoning permit, the plans shall be revised as follows:
575 a. The graphic scale on Sheet SP.2 shall be corrected to 1 inch = 20 feet.
576 b. The landscaped island shall be moved adjacent to the east side of the building and
577 adapted into an outdoor patio area. In addition, the extra drive aisle just east of the
578 building shall be eliminated, and the entire site accordingly shifted east outside of
579 the wetland buffer area.
580 4. An electronic copy of the plans as may have been revised shall be submitted to the E911
581 coordinator in .PDF file format. Another copy shall be submitted in geodatabase or
582 shapefile in Vermont State Plane Meters, NAD83 (NSRS or most current); alternatively,
583 coordinated CAD data – Vermont State Plane Coordinates, US Survey Feet, Grid Zone
584 4400, NAD 83 (2011) epoch 2010.0, NAVD 88 (geoid12b); alternatively, paper showing
585 three (3) values of State Plane Coordinates.
586 5. Prior to the issuance of a zoning permit, the applicant shall pay any traffic fees as
587 assessed by Public Works.
588 6. Prior to the issuance of a zoning permit, the applicant shall pay water fees (\$3,399.61)
589 and sewer fees (\$6,110.99) totaling \$9,150.60, or the fees in place at the time of submittal
590 or if a different use occupies the building.
591 7. Prior to the issuance of a zoning permit, the applicant shall provide fire demand
592 calculations if fire suppression systems are to be used in the building.
593 8. Prior to the issuance of a zoning permit, the applicant shall obtain any and all applicable
594 state approvals and permits and shall submit copies to the Community Development
595 Department for review.
596 9. Prior to the issuance of a zoning permit, the applicant's engineer shall submit calculations
597 demonstrating the amount of phosphorus removal that will be provided by the proposed
598 stormwater systems.
599 10. All utility lines shall be installed underground.

Site Plan
86/90 Center Road
April 30, 2020

- 600 11. Per the Town of Essex Water Use Ordinance, this 1.5-inch water service line installed
601 from the existing 6-inch service stub to the building shall be copper.
- 602 12. All water, sewer, and storm water infrastructure shall be installed in accordance with the
603 specifications and details provided within the *Town of Essex Standard Specifications for*
604 *Construction*.
- 605 13. The proposed building shall be metered and billed off its own meter. The applicant's
606 engineer shall provide peak domestic water demand calculations, based on the number of
607 fixture units, for properly sizing the water meter for the proposed building. The Town of
608 Essex will not size the meter based on line pressure in the building.
- 609 14. The cold storage and waste enclosure areas shall be screened with materials matching the
610 proposed building, including tan or dark brown horizontal siding or matching brickwork.
- 611 15. No occupancy of the structure shall occur until a certificate of occupancy inspection and
612 sign off is issued by the Zoning Administrator. A copy of the State's occupancy approval
613 shall be filed and attached to the Town's inspection approval.
- 614 16. All landscaping shall be guaranteed for the life of the project. Any dead or diseased
615 plantings shall be replaced as soon as seasonally possible.
- 616 17. By accepting the conditions of this approval without appeal, the applicant confirms and
617 agrees for itself and all assigns and successors in interest that the conditions of this
618 approval shall run with the land and the land uses herein permitted, and will be binding
619 upon and enforceable against the applicant and all assigns and successors in interest.

620 **IV. Attachments**

- 621 • "Proposed Burger King – Essex Square, 86 Center Road, Alternate Layout with
622 Landscaped Plaza," prepared by Darren Schibler, dated 03/20/2020
- 623 cc: Brian Waxler, Pomerleau Real Estate
624
- 625 G:\PC\REPORTS\Center Road 86 SitePlan Revised 20200430.docx