ESSEX PLANNING COMMISSION
October 10, 2019

STAFF REPORT - SITE PLAN REVIEW  86 / 90 Center Road
Prepared by Darren Schibler, Town Planner

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Summary

The proposal is for a 2,886-square-foot restaurant on a greenfield site within an existing shopping center property. The proposal conforms to the site plan review criteria and general provisions of the Zoning Regulations. The applicant has secured a state wetlands permit for the proposed buffer impact to a delineated Class II wetland. However, the proposal does not conform to the B-DC design goals and objectives. The building’s roofing, windows, and entry doors do not reflect the existing character of the Essex Center area; these must be revised. In addition, the placement of parking between the building and the rest of the plaza is in conflict with the B-DC standards and disconnects it from the streetscape and public realm; also, the configuration of the drive-through does not provide significant landscaping along the project’s frontage. Ideally, the building should be relocated closer to the main plaza with parking at the rear, but an acceptable alternative would be to replace some of the proposed parking with civic space that achieves a better streetscape transition, landscaping and site treatment, and community cohesion.
Applicant
Pomerleau Real Estate
69 College Street
Burlington, VT 05401

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

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

Background
A 3,000-square foot duplex was built on the eastern part of the property sometime in the 1960s.
On May 6, 1970, the Town of Essex Zoning Board of Adjustment approved a shopping center
known as the Essex Square at what is now known as 90 Center Road. The shopping center
included ten retail establishments, a bank, and a supermarket. Construction was completed in
early 1972. The single-family house was retained as an office building.

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

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

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

On April 9, 1992, the Planning Commission approved a 33,940-square-foot expansion to the
Essex Square Shopping Center in two phases for a total of 77,415 square feet. However, Phase II
and the western expansion within Phase I were not constructed. Regardless, this expansion
involved disturbance to the Class II wetland north and east of the site, for which the applicant
received a Conditional Use Determination by the State Wetlands Office on July 26, 1991. At that
time, the landowner conveyed several right-of-way deeds and easements to the Town along the
eastern property boundary for future roadways, recorded in the Land Records under Book 291,
pages 437 and 440 and slide 275.
On October 5, 2000, the Zoning Board of Adjustment granted conditional use approval for a grades K-2 private school and day care within the existing house on the western portion of the site. The Planning Commission granted site plan approval for the school on October 19, 2000. Various minor amendments and extensions were granted for this use over the years.

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

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

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

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

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

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

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

The applicant has submitted the following plans:

- Sheet #B1, “ALTA/NSPS Land Title Survey, Pomerleau Family, LC, Essex Square, 86-100 Center Road, Essex, Vermont,” prepared by Summit Engineering, dated 3/20/2018, revised 8/22/2018;
- Sheet #EX.1, “Existing Conditions Plan, Burger King Restaurant, Essex Square Pomerleau Family, LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering, dated 06/10/2019;
- Sheet #SP.1, “Overall Site Plan, Burger King Restaurant, Essex Square Pomerleau Family, LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering, dated 06/10/2019, revised 09/09/2019;
- Sheet #SP.2, “Detailed Site Plan, Burger King Restaurant, Essex Square Pomerleau Family, LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering, dated 06/10/2019, revised 09/09/2019;
- Sheet #DT.1, “EPSC Details and Notes, Burger King Restaurant, Essex Square Pomerleau Family, LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering, dated 06/10/2019;
ZR Section 5.6(A), General Requirements

1. Conformance with the Essex Town Plan

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

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

Specific Land Use Policy 3(s).10: Strip development along roadsides, instead of compact development, shall be discouraged.

General Policy 2: Economic growth shall be diversified with development occurring in and around the Town Center...

Specific Policy 2(S).1: Infill development within existing industrial and commercial
zoning districts shall be promoted.

**Goal 3c:** A community that is served by varied modes of transportation with automobile use balanced by increased availability of public transit, sidewalks, and multi-use trails.

**General Policy 7:** Standards for resource protection may be more relaxed inside the sewer service area, where higher concentrations of development are desirable...

### 2. Dimensional limitations and provisions of the Zoning Regulations

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

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

#### i. Purpose

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

#### ii. Permitted and Conditional Uses

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

#### iii. District Dimensional Requirements

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

<table>
<thead>
<tr>
<th>Dimensional Requirements</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area – Nonresidential</td>
<td>10,000 sf</td>
<td>597,594 sf</td>
</tr>
<tr>
<td>Minimum Lot Frontage</td>
<td>75 ft.</td>
<td>1,104 ft.</td>
</tr>
<tr>
<td>Minimum Front Setback (from ROW)</td>
<td>30 ft.</td>
<td>(Burger King) 40 ft.</td>
</tr>
<tr>
<td>Maximum Front Setback (from ROW)</td>
<td>40 ft.</td>
<td>(Burger King) 40 ft.</td>
</tr>
<tr>
<td>Minimum Side Setback</td>
<td>10 ft.</td>
<td>(TD Bank) 35.8 ft.</td>
</tr>
<tr>
<td>Minimum Rear Setback</td>
<td>15 ft.</td>
<td>(Price Chopper) 151.6 ft.</td>
</tr>
<tr>
<td>Maximum Lot Coverage – All</td>
<td>70%</td>
<td>48.7 %</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>40 ft.</td>
<td>22 ft.</td>
</tr>
</tbody>
</table>
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 existing 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 coverage 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 not relevant to this proposal.

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 proposal meets this 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.

i. Maintain and Improve Economic Vitality

Though the revenue generated from the proposed restaurant may not stay entirely local because it is a multinational franchise company, it will still provide local jobs and a social gathering place within convenient automobile and non-motorized access to the historic Essex Center area. These features can help stabilize and strengthen local property values.

ii. Preserve and Enhance Visual Qualities

The proposed building is generally visually compatible with the existing character of the Center, and the site plan retains a significant open wetland visible from the road to reinforce the Center’s visual quality. Visual compatibility is reviewed further in Findings I(A)(3)(a)(iii) and I(A)(3)(d).

iii. Protect Historical, Architectural, and Cultural Heritage

The selection of exterior building materials are compatible with traditional materials within the Center, and also reflect the existing façade styles (horizontal clapboard siding or brick and stone). However, the use of a flat
iv. **Encourage a Pedestrian Friendly Environment**

The proposal includes direct sidewalk access from Center Road as well as crosswalk connections to other buildings in the shopping center. However, the separation of the building by the proposed parking area creates less visibility and attraction for users of the plaza; relocating the building closer to the existing parking area or providing civic space would enhance the pedestrian experience.

v. **Encourage Coordination and Harmony**

The building is appropriately-scaled to the existing residential character of the Center and does not impact existing buildings (though a single-family home formerly used as a daycare was removed from the site several years ago).

As noted above in Finding I(A)(3)(a)(iv), the building is separated from the main plaza by a significant expanse of parking, which makes it less coordinated and visually compatible with adjacent development. This is further reviewed in Finding I(A)(3)(d)(i).

(b) **General Provisions of the B-DC**

The B-DC standards apply in addition to the requirements of the underlying zoning district, allowed uses, and dimensional standards.

(c) **District Design Review Process**

The applicant has submitted building elevations in Sheets A-2.1 and 2.2; conformance to applicable design control standards is reviewed in Finding (I)(A)(3)(d).

(d) **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 meeting the required front setbacks (or build-to-zone) and 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, as noted in Findings I(A)(3)(a)(iv) and (v), the placement of the
building west of the proposed parking physically and visibly separates it from
the existing shopping center’s development pattern. The east façade is clearly
intended as a main entrance, but because of the separation it is not easily
visible from the rest of the plaza and does not accomplish desirable transition
with that streetscape.

If the building were placed closer to the main circular access drive through the
shopping center, it would better reflect the existing development pattern and
provide clearer connection to adjacent buildings through its placement around
a central plaza. Alternatively, some of the proposed parking between the
building and the plaza could be repurposed as a small civic space (green,
plaza, or pocket park), which would create a better transition with the
streetscape and enhance the center’s sense of community.

ii. Landscaping and Site Treatment

Landscaping and lighting are fully reviewed in Findings I(F) and (G), and the
B-DC standards mirror site plan review standards in these regards. However,
it is noted that the drive-through exit is located very close to the site’s frontage
on Center Road, which provides little to no space for landscaping. A design
without a drive-through would provide more space for visual enhancement of
the frontage. Some of this lack of landscaping along Center Road could be
mitigated by additional green space east of the building, as proposed in

iii. Building Design

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

The building elevations shown in Sheets A-2.1 and 2.2 indicate that the
building will be approximately 1 story, and its limited floor area reflects the
residential character of the area. The elevations show the use of primary
façade materials that are equivalent to brick and horizontal clapboard siding,
with an accent of dark grey stone veneer. However, the roof is flat save for
four façade accent panels that extend slightly above the roofline, all of which
are out of character with the predominantly gabled roofs of the district,
including the existing buildings in the shopping center. Also, the windows are
asymmetrically paneled, not double-hung sash, and the entry doors are fully
iv. Access and Parking

As noted in Findings I(A)(2)(iv) and I(C), the site’s access is provided through an entry from Center Road / VT Route 15 that is shared with the other buildings in the shopping center. However, parking is not located exclusively at the rear of the building, which disrupts the streetscape transition from the main plaza as noted in Findings I(A)(3)(a)(iv) and I(A)(3)(d)(i). Though the parking does separate pedestrian movement from large truck traffic, the potential conflicts are mitigated by low speed limits, good visibility, and the use of crosswalks. Given these, streetscape transition and engagement with the public realm take priority to better enhance community cohesion. Creation of civic space as proposed in Findings I(A)(3)(a)(iv) and I(A)(3)(d)(i) would be a suitable alternative to relocating the building and parking.

v. Signs

The applicant will submit a separate sign application after the project receives final approval; however, initial façade signs depicted on the elevations appear to be in conformance with the requirements of the B-DC and ZR Section 3.10, provided that colors are appropriate to the building and sign lighting is indirect or reverse-channeled. Upon application for sign permits, the Zoning Administrator will determine whether the drive-through elevation qualifies as a façade for the purpose of erecting a third façade sign.

(e) B-DC design requirements for the CTR District

The height, location, orientation, spacing, access, and exterior materials of the proposed building meet the specific design requirements of the CTR district, as reviewed in Findings I(A)(3)(b) and (d). The building also meets the required front setback of 30-40 feet, which supersedes provision 2.16(e)(7).

However, as noted in Finding I(A)(3)(d)(iii), the roof style is not compatible with other roof style in the district.

4. Protection of public health, safety, and welfare

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

The property does not have any outstanding zoning violations.

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

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

1. Topography

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

2. Steep Slopes

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

3. Surface Waters and Wetlands

The applicant’s engineer has delineated the boundaries of a Class II wetland that extends through the northwestern portion of the parcel. The proposed building site would impact approximately 3,697 square feet of the Class II wetland buffer as well as a 285-square-foot area of Class III wetland, for which the applicant has secured a state Individual Wetland Permit (#2013-010).

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

4. Renewable Energy

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

5. Open Space

The proposed building would be located within an open meadow that is currently maintained as lawn, adjacent to a Class II wetland. However, the building is clustered with the existing development and leaves a significant portion of the western portion of the property open and undeveloped, and there are no scenic views beyond the meadow due to topography and vegetation.
Pedestrian and vehicular access to the site must meet applicable design standards in the Zoning Regulations and Public Works specifications. The Planning Commission can impose conditions related to on- or off-site improvements meant to mitigate the impact of traffic, or to maximize pedestrian and vehicular safety.

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

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

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

In a memorandum dated August 2, 2019, Public Works staff stated that review of impacts to traffic volume is under the jurisdiction of the Vermont Agency of Transportation (VTrans) because Center Road/VT Route 15 is a state highway. Public Works recommended that the applicant provide a letter of approval from VTrans prior to issuance of a building permit.

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

The aisle widths meet or exceed the standards required under ZR Section 3.9(A)(1) and turning angles are sufficient to accommodate anticipated vehicular traffic, including...
emergency vehicles. Fire safety is reviewed in more detail in Finding I(I).

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

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

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

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

### (E) ZR Section 5.6(E), Parking

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

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

As part of the proposal, 20 existing paved parking spaces along the western edge of the plaza would be eliminated, but would be replaced by several new parking areas totaling 31 spaces for a net gain of 21 spaces, 2 of which would meet the ADA van-accessible standard. In addition, 12 queuing spaces would be provided. This meets the requirements of ZR Section 3.3(B) and ZR Section 3.9(H) for the restaurant alone. The table below shows the parking requirements for the entire shopping center by use; calculations for the required number of spaces are rounded up. As noted in Finding I(A)(3)(b)(v), the additional parking proposed could be relocated to the rear (west) of the building to better screen it from public view and also provide better coordination of the building with adjacent development.
Site Plan  
86/90 Center Road  
October 10, 2019  

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

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

Though the proposed number of spaces for the overall shopping center (346) is far below the required number of spaces under ZR Section 3.9(B) (449 spaces), the shopping center has not experienced under-parking issues with the current business uses. Because the additional parking for the restaurant exceeds what would be required as a stand-alone use, it appears the proposed parking scheme will adequately serve the development as required under ZR Section 3.9(I). Even if a few spaces were replaced with civic space as recommended in Findings I(A)(3)(a)(v) and I(A)(3)(d)(i), the site appears to be able to accommodate parking needs. The number of spaces provided for the overall shopping center which meet ADA standards (14, of which 11 are van-accessible) also exceeds what is required under ZR Section 3.9(H) (8 spaces, one of which must be van-accessible).

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

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

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

1. Street Trees

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

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

3. Planting Strip

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

(G) ZR Section 5.6(G), Lighting

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

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

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

1. Water Supply and Sewage Disposal

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

a. The Town Square Shopping Plaza, inclusive of the bank, grocery store building and the existing lot known as 86 Center Road are within the Town of Essex Sewer core, and currently have purchased and unpurchased sewer allocation assigned to the complex. The table below breaks down the existing water and sewer allocation for each unit / use within the complex.
b. The applicant’s engineer has not provided the correct water and sewer calculations for the proposed restaurant. Table 10.12.380 of the Town’s Water Use Ordinance lists restaurants, serving three meals a day as having a domestic water and sewer demand of 30 GPD per seat. Also, the applicant’s engineer provided calculations for water and sewer on Sheet SP.1 using 60 Seats for Water and 62 Seats for Sewer. This review assumes that the applicant is requesting 62 seats. The proposed restaurant will require a total of 1,860 GPD of both water and sewer allocation. As noted above, the applicant has 1,491.7 GPD of existing water and sewer allocation available for this project. An additional 368.3 GPD will be required for this proposed project.

c. The applicant will be required to apply for additional sewer allocation. The total additional sewer allocation required for the proposed restaurant is 368.3 GPD. This amount does not meet the threshold for Selectboard approval and can be approved administratively.

d. The sewer and water connection fees are provided below. In addition, if the fee schedules changes, then the fee charged shall be the fee in effect at the time of submittal for a building permit. The $1,000.00 base connection fees for both water and sewer have been waived due to the pre-existing connections from the previous structure located on the site.

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

**Existing Allocation Totals**

<table>
<thead>
<tr>
<th></th>
<th>Total Allocation used</th>
<th>Purchased Allocation</th>
<th>Unpurchased Allocation</th>
<th>Available Purchased</th>
<th>Available Unpurchased</th>
<th>Total Available</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5426.3</td>
<td>6663.0</td>
<td>255.0</td>
<td>1236.7</td>
<td>255.0</td>
<td>1491.7</td>
</tr>
</tbody>
</table>

**Remaining Allocation**

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Available Purchased</td>
<td>1236.7</td>
<td>1236.7</td>
</tr>
<tr>
<td>Available Unpurchased</td>
<td>255.0</td>
<td>255.0</td>
</tr>
<tr>
<td>Total Available</td>
<td>1491.7</td>
<td>1491.7</td>
</tr>
</tbody>
</table>
i. Water: (368.3 GPD + 225.0 GPD) x $5.73/gallon + $0 = $3,399.61

ii. Sewer: (368.3 GPD + 225.0 GPD) x $10.30/gallon + $0 = $6,110.99

iii. Total = $9,510.60

e. Recent hydrant flow testing confirms that there is adequate domestic water pressure for the proposed building.

Public Works also provided several conditions of approval for the design of water and sewer infrastructure, which are listed under the proposed conditions 11, 12, and 13 under Finding III.

Finally, the proposed water and sewer lines run within 10 feet of existing mature trees. Not only will the excavation for those lines damage the root systems of those trees, over time the growth of roots may damage the water and sewer lines. These lines must be relocated on the final site plans to avoid impacting existing street trees.

2. Stormwater Management

The applicant’s engineer described the stormwater system in the project narrative dated June 21, 2019:

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

In a memorandum dated August 2, 2019, Public Works staff provided several design changes and conditions of approval which are listed in Finding III, conditions 3(e-g), 8, 9, and 12. Public Works also stated:

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

b. On the Detailed Site Plan on SP.2, it indicates that dry swales will be used to direct the flow of stormwater to the sand filters. On Sheet DT.1, details are provided for stone-lined swales and grass-lined swales. The applicant’s engineer shall comment on where these are planned in the site design. If the
practices are not to be used in the design, then these details shall be removed from the site plans.

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

d. Public Works recommends extending the silt fence on either side of the project (i.e., around Sand Filter 1 to the extent of the proposed dry swale and around Sand Filter 3). While it is understood that the project slopes towards the center of the site, the project is located near the existing sidewalk on VT RT 15 and the Price Chopper parking lot. This will provide a barrier for the public during construction.

3. Utilities

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

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

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

In e-mails dated September 10 and 11, 2019, the Fire Chief stated that the fire lane around the north and west sides of the proposed building must be at least 20 feet in width to allow space for the outriggers on the Town’s ladder truck. In an e-mail dated September 11, 2019, the applicant responded that there is sufficient 20-foot width for fire lanes in these locations if the concrete surfaces of the drive-through are included. Though there appears to be curbing separating the two surface types, the applicant confirmed that there will be no curbing at these locations, which will allow more than sufficient space for the ladder truck and outriggers. The Fire Chief maintains that this will not suffice.

II. Additional Findings by the Planning Commission

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

1. All conditions from previous approvals shall remain in effect except as modified herein.

2. All construction shall be in conformance with the plans listed above as may be amended herein.

3. Prior to the issuance of a zoning permit, the plans shall be revised as follows:
   a. Sheets SP.1, SP.2, LA-1.00, LA-2.00, and LA-3.00, the waste enclosure shall be relocated to the northwest side of the building, or else the sidewalk at the existing location shall be designed with a mountable curb;
   b. On Sheets SP.1, SP.2, LA-1.00, LA-2.00, and LA-3.00, the proposed water and sewer service lines shall be relocated to maintain a distance of at least 15 feet from existing or proposed trees;
   c. Sheets SP.1, SP.2, LA-1.00, LA-2.00, and LA-3.00, the apparent curbing shown between the drive-through lane and the parking aisle shall be removed.
   d. On Sheet SP.2, locations for stone-lined swales and grass-lined swales shall be indicated unless only dry swales are to be used; in the latter case, the details for stone-lined swales and grass-lined swales shall be removed from Sheet DT.1;
   e. The overflow channels from Sand Filter 1 and Sand Filter 3 shall be lined with stone.
   f. The erosion matting on the slopes around Sand Filter 1 shall be extended to the overflow channel for stabilization.
   g. The silt fence on either side of the project shall be extended around Sand Filter 1 to the extent of the proposed dry swale and around Sand Filter 3.

4. An electronic copy of the plans as may have been revised shall be submitted to the E911 coordinator in .PDF file format. Another copy shall be submitted in geodatabase or shapefile in Vermont State Plane Meters, NAD83 (NSRS or most current); alternatively, coordinated CAD data – Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83 (2011) epoch 2010.0, NAVD 88 (geoid12b); alternatively, paper showing three (3) values of State Plane Coordinates.

5. Prior to the issuance of a zoning permit, the applicant shall pay any traffic fees as assessed by Public Works.

6. Prior to the issuance of a zoning permit, the applicant shall pay water fees ($3,399.61) and sewer fees ($6,110.99) totaling $9,150.60, or the fees in place at the time of submittal or if a different use occupies the building.

7. Prior to the issuance of a zoning permit, the applicant shall provide fire demand calculations if fire suppression systems are to be used in the building.

8. Prior to the issuance of a zoning permit, the applicant shall obtain any and all applicable...
state approvals and permits and shall submit copies to the Community Development
Department for review.

9. Prior to the issuance of a zoning permit, the applicant’s engineer shall submit calculations
demonstrating the amount of phosphorus removal that will be provided by the proposed
stormwater systems.

10. All utility lines shall be installed underground.

11. Per the Town of Essex Water Use Ordinance, this 1.5-inch water service line installed
from the existing 6-inch service stub to the building shall be copper.

12. All water, sewer, and storm water infrastructure shall be installed in accordance with the
specifications and details provided within the Town of Essex Standard Specifications for
Construction.

13. The proposed building shall be metered and billed off its own meter. The applicant’s
engineer shall provide peak domestic water demand calculations, based on the number of
fixture units, for properly sizing the water meter for the proposed building. The Town of
Essex will not size the meter based on line pressure in the building.

14. No occupancy of the structure shall occur until a certificate of occupancy inspection and
sign off is issued by the Zoning Administrator. A copy of the State’s occupancy approval
shall be filed and attached to the Town’s inspection approval.

15. All landscaping shall be guaranteed for the life of the project. Any dead or diseased
plantings shall be replaced as soon as seasonally possible.

16. By accepting the conditions of this approval without appeal, the applicant confirms and
agrees for itself and all assigns and successors in interest that the conditions of this
approval shall run with the land and the land uses herein permitted, and will be binding
upon and enforceable against the applicant and all assigns and successors in interest.

IV. Attachments

- Planning and Zoning Application, 86-100 Center Road, received 06/21/2019.
- Project Narrative, “Planning and Zoning Application for 86-100 Center Road, Essex,”
from Brian Waxler, COO, Pomerleau Real Estate, dated 06/27/2019.
- Project Narrative, “Revised Plan – Planning and Zoning Application for 86-100 Center
Road, Essex,” from Brian Waxler, COO, Pomerleau Real Estate, dated 09/04/2019.

cc: Brian Waxler, Pomerleau Real Estate

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