ESSEX PLANNING COMMISSION  
January 9, 2020  

STAFF REPORT – 25 CARMICHAEL STREET  

Site Plan  
Prepared by Darren Schibler, Town Planner  

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Summary  

The applicants have proposed a 3,500-square-foot bank with drive-through on a greenfield site that is currently part of an existing shopping center and commercial planned unit development (PUD-C). The proposal involves subdividing a 0.91-acre parcel from the PUD-C, which was approved by the Planning Commission on November 14, 2019 in addition to conceptual site plan approval.  

Except for the architectural design and materials of the proposed corner entry tower, the proposal conforms to site plan review criteria and general provisions of the Zoning Regulations. That said, the site layout could be modified to better align with the B-DC goals and objectives.  

The automobile-oriented design of the site is an inefficient use of space, and the building fails to engage with the public realm because the frontages are occupied by parking. Though landscaping along Carmichael Street and Essex Way helps enhance the streetscape, the preferred layout would be to locate the building closer to Carmichael Street, with parking located to the west or south. Alternatively, the applicant could design more integrated civic spaces within the site.
Applicants

SeaComm Federal Credit Union
Eurowest Retail Partners, LTD

c/o Scott Wilson
c/o Peter Edelmann

30 Stearns Street
PO Box 8567

Massena, NY 13662
Essex, VT 05451

Proposal

The applicants have proposed a new 3,500-square-foot drive-through bank on a 0.91-acre parcel recently subdivided from an existing 24.64-acre neighborhood shopping center and commercial planned unit development (PUD-C). The new parcel is tentatively referred to as 25 Carmichael Street and is located in the Retail-Business (B1) subzone of the Mixed Use Development – Planned Unit Development (MXD-PUD) zoning district and the Business Design-Control Overlay (B-DC) district.

The site would be accessed through a private service road off Carmichael Street near its intersection with Essex Way. Site improvements also include 20 new parking spaces and a three-lane drive-through, stormwater infrastructure, relocated utility lines, site landscaping, and a new sidewalk along the service road connecting the site to the 21 Essex Way parcel.

Background

On February 28, 1985, the Planning Commission granted final approval for an 11-lot subdivision of the Lang Farm, located between Essex Center and the Village of Essex Junction, and consisting of a mix of retail/commercial, residential, and open space. The land was initially divided into 9 lots (lettered A through I), but two of those parcels were further subdivided by number (A-1 and D-1) at the time of final approval to create 11 lots.

On February 28, 1985, the Planning Commission also granted site plan approval for Lang Farm Parcel A as a neighborhood shopping center and included 38,500 square feet of retail space on Parcel A (the Essex Outlets) and a 42,000-square-foot supermarket on Parcel A-1 (Hannaford).

On June 12, 1986, the Planning Commission approved a subdivision of the 10-acre Parcel F into four commercial lots numbered F-1 through F-5, located on either side of Essex Way at the intersection with VT Route 15 / Center Road. At that time, Lot F-4 (0.28 acres) was merged with Parcel A (currently known as 21 Essex Way), and a 60-foot right-of-way running west off Essex Way was reserved for a future road that later became Carmichael Street. The current proposal is for a portion of the land originally designated as Lot F-3.

On November 18, 1993, the Planning Commission approved Lang Farm Parcel A (21 Essex Way) as a planned business development (now termed a commercial planned unit development, PUD-C) along with a site plan amendment to increase the number of parking spaces (over 800, but it is unclear exactly how many were approved) and associated improvements. The main consideration for approving the PUD-C was to allow setbacks along Essex Way to be reduced to as few as 15 feet where 50 feet would normally be required, allowing the applicant to create storefronts that were more visually appealing from the street and relocate parking to the rear of the buildings. The
PUD-C plan was effectively approved as the master plan for the development.

On April 14, 1994, the Planning Commission approved a final subdivision amendment to the overall Lang Farm subdivision to combine Parcels A and F-3.

Since that time, site plan and final plan amendments for minor alterations have been approved by the Planning Commission, and various conditional uses have been approved by the Zoning Board of Adjustment.

On August 23, 2007, the Planning Commission approved a site plan amendment for the Essex Shoppes and Cinema PUD-C to construct a 12,094-square-foot hardware store as Building 5 (15 Essex Way, part of the land formerly designated as Parcel F-4) and a 7,200-square-foot restaurant as Building 6 (25 Carmichael Street, formerly known as Parcel F-3 and the site currently under review), which was never constructed.

Today, adjacent land uses include a hardware store to the south; the shopping center to the southwest (including a grocery store closest to the proposed bank); a general commercial and office building to the northwest; a pharmacy to the north; and professional offices and a United States post office to the east.

On November 14, 2019, the Commission approved a subdivision of a 0.91-acre parcel out of the 21 Essex Way property at the corner of Essex Way and Carmichael Street (located just north of the building at 15 Essex Way).

At the same hearing, the Commission granted sketch (or conceptual) approval to the site plan for the proposed bank. During the hearing, the Commission noted that the site is underutilized and auto-oriented, and requested changes including relocating the building closer to the street, reducing the number of drive-through lanes, and adding landscaping to screen the parking areas and headlight glare from the drive-through. The Commission also expressed concern over the visibility of internal lighting, and stated that the proposed tower was architecturally inconsistent with the rest of the building.

**Proposed Findings**

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

The applicant has requested site plan review for the proposed bank pursuant to Section 5.6 of the Town of Essex Outside the Village of Essex Junction Official Zoning Regulations. The purpose of site plan review is to ensure the project’s compliance with the Town Plan, the Zoning Regulations (ZR), and conditions of previous approvals. Site Plan review standards specifically include preservation of natural and scenic features, layout of development, access, internal circulation, parking, landscaping, lighting, and utilities and fire protection.

In support of the application, the applicant has submitted the following plans and documentation:

- **Cover Sheet,** “Eurowest Retail Partners, LTD and SeaComm Federal Credit Union, Proposed Minor Subdivision, 21 Essex Way,” prepared by Catamount Consulting


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

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

   The proposed project conforms to the following goals and policies of the *2016 Essex Town Plan*:

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

   **Goal 1d:** A human scale of development that fosters a sense of community in the Neighborhood Growth Centers.

   **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.

However, as noted in Finding I(A)(3)(a), the proposal does not fully conform to the following goal because it is primarily designed around automobile use:

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.

2. Dimensional limitations and provisions of the Zoning Regulations

This project is located in the Retail-Business (B1) subzone of the Mixed-Use Development – Planned Unit Development (MXD-PUD) district, and must conform to the purpose and standards listed in Table 2.13 of the Zoning Regulations. The project is also located within the Business – Design Control (B-DC) Overlay District and must conform to the standards in Table 2.16.

The proposal meets the purpose of the MXD-PUD district in that represents commercial development that aligns with the intent of the comprehensive mixed-use planning effort for the Lang Farm. For commercial development, the allowed uses and dimensional standards refer to Table 2.9, the Retail-Business (B1) district standards, except that automobile service stations, car washes, and convenience stores are not allowed within the MXD-PUD district. A bank with a drive-through is a permitted use within the B1 and MXD-PUD districts.

The proposed lot and building conform to the B1 district dimensional requirements as shown in the table 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>30,000 s.f.</td>
<td>39,595 s.f.</td>
</tr>
<tr>
<td>Minimum Lot Frontage</td>
<td>150 ft.</td>
<td>384 ft.</td>
</tr>
<tr>
<td>Minimum Front Setback (from ROW)</td>
<td>50 ft.</td>
<td>62 &amp; 85 ft.</td>
</tr>
<tr>
<td>Minimum Side Setback</td>
<td>None</td>
<td>27 ft.</td>
</tr>
<tr>
<td>Minimum Rear Setback</td>
<td>None</td>
<td>N/A</td>
</tr>
<tr>
<td>Maximum Lot Coverage – All</td>
<td>70%</td>
<td>59.0%</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>40 ft.</td>
<td>&lt; 40 ft.</td>
</tr>
</tbody>
</table>

The proposal also conforms to the district development standards in ZR Table 2.9(F).

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. Development should follow the recommendations in the Historic Preservation and Design Control Standards for Essex Center and Fort Ethan Allen (1986) report, as well as the district goals and design objectives in ZR Table 2.16(A).
Overall, the proposal meets the minimum level of conformance to the B-DC standards, but could be improved to better align with the design requirements. Construction of the proposed bank on a vacant site would increase the property value of the parcel itself and likely those of nearby parcels compared to the present. In addition, the project would strengthen the Center’s economic base by providing local jobs and services. However, the site is designed primarily around automobiles, rather than pedestrians or bicyclists. This layout makes inefficient use of space due to the large expanses of pavement required (failing to achieve the full potential property value). Approximately 44% of the site’s area would be dedicated to vehicles in the form of parking, drive aisles, and the drive-through, with approximately 3% dedicated to non-motorized access and 9% to the building itself. Parking and access design are further reviewed in Finding I(A)(3)(d).

In addition, as noted by the Planning Commission at the November 14, 2019 hearing, the separation of the building from the public realm makes it visually incompatible with adjacent buildings to the west along Carmichael Street, though it is compatible with development along Essex Way. The provision of additional landscaping along the frontages helps mitigate the change in building setback and provides some transition from the streetscape. Still, the preferred approach would involve relocating the building closer to the streets, or integrating more functional civic space, in order to enhance the pedestrian experience and achieve a better relationship to the site’s surroundings.

Finally, the building is somewhat architecturally-compatible with surrounding development, but the proposed tower is out of scale and mass with the rest of the building and adjacent buildings, and the façade materials are inconsistent with the requirements of the B-DC.

(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 un-numbered Sheets 1-6; 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

Though adequate parking is provided, it is located along the site’s frontages on Carmichael Street and Essex Way. As noted in Finding I(A)(3)(a), the proposed landscaping achieves a somewhat desirable transition from the
streetscape, but the preferred design would be to locate the building along Carmichael Street to allow for more direct sidewalk access. This would also make the building appear more compatible in scale and mass with adjacent buildings despite its small size. Alternatively, some form of functional civic space could be incorporated into the site to provide more attraction for pedestrians and users of the site, such as a plaza, pocket park, or landscaped paths.

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. The revised plans show that additional landscaping would be provided along the project’s frontages, which would adequately screen parking areas, access drives, and waste storage areas, in addition to screening headlight glare from the drive-through as requested by the Planning Commission at conceptual review.

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 design 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, should include roof overhangs and cornice treatments. Windows should be double-hung sash, and paneled entry doors should reflect existing styles. Exterior walls should be faced with horizontal clapboard siding or brick.

With approximately 1.5 stories, the height of the proposed building is appropriate to neighboring structures, as well as the residential character recommended in the design report. The design does not follow recommendations for double-hung sash windows and paneled entry doors, but the design is compatible with buildings in the immediate vicinity, not all of which utilize those window and door styles.

The use of hipped roofs with overhangs reflects the style of existing buildings within the Center; however, the height of the entry tower disrupts the angle of the main roofline, and its mass and scale are incompatible with the rest of the building and adjacent buildings.

Certain proposed exterior building materials, such as brick and precast concrete foundation which imitates the visual appearance of stone, are compatible with traditional materials within the Center. However, the architectural renderings note that EIFS will be used on the proposed tower.
EIIF, or Exterior Insulation Finishing System, is a construction method, not a material. In an e-mail dated December 23, 2019, the applicant’s architect stated that the proposed finish resembles cementitious stucco, which is inconsistent with the appearance of rest of the building and the materials of other buildings in the B-DC.

Mechanical equipment would be located on the west side of the building and screened by stockade fencing and landscaping. In an e-mail dated December 23, 2019, the applicant’s engineer stated that the material of the fence would likely be polyvinyl with off-white or beige color to match the building’s exterior. This would be compatible with exterior fencing of the Ace Hardware site at 15 Essex Way, but not with other sites along Carmichael Street.

iv. Access and Parking

The site’s vehicular access is provided through a shared private service road rather than directly to a collector or arterial street.

The B-DC design requirements state, “When appropriate, parking should be located at the rear of commercial establishments.” Though it is clear that parking in the rear is the preferred layout, the Regulations do not specify when this is appropriate or not. In the project narrative dated October 9, 2019, the applicant’s engineer addressed parking layout in the context of this provision:

Although we know the Town typically discourages parking along property frontages, the proposed drive through bank poses challenges from a layout perspective to accommodate that request. There are several reasons for the proposed site layout that include the following:

- The property is fairly small and limits layout options.
- The preference is to have counterclockwise drive through traffic so drivers can more easily access the tellers.
- The walk-in entrance generally needs to be opposite the drive through from an internal layout perspective.
- The parking needs to be near the main building entrance, which ideally is located along the main property frontages.
- The layout attempts to screen the drive through queuing traffic.
- The layout separates the drive through and walk-in traffic to minimize conflicts on site that can include queued traffic impacting the parking areas.

Another concern of the Town was the ability to have access completely around the building for fire protection.

It is acknowledged that the site’s layout present certain design challenges to locating parking at the rear (west or south) of the building. As detailed in Finding I(E), the design assumes and encourages a large volume of automobile traffic, rather than discouraging automobile use in favor of non-
motorized transportation, which would support the Town’s goals of reducing automobile use and associated energy consumption. The applicant is encouraged to consider reducing the number of parking spaces and reducing or eliminating the drive-through to allow for a pedestrian-oriented design where the building is not separated from the sidewalk by parking and access drives. Alternatively, some form of functional civic space, such as a plaza, pocket park, or landscaped path could be added to the site.

v. Signs

On September 23, 2010, the Planning Commission approved a site plan amendment to allow administrative review for all façade signs for the 21 Essex Way property, including conformance to the Business-Design Control standards. This approval extends to the subject property, which was subdivided from the 21 Essex Way property. The applicant will submit a separate sign application after the project receives final approval. The initial façade sign depicted on the elevations appears to be in general conformance with the requirements of the B-DC and ZR Section 3.10, provided that the area of the façade sign does not exceed the requirements of ZR Section 3.10(F)(2) and sign lighting is indirect or reverse-channeled. Conformance to these provisions shall be reviewed by the Zoning Administrator upon application for a sign permit.

(e) B-DC design requirements for the MXD-PUD District

The proposal does not conflict with the standards limiting direct access or curb cuts on Old Stage Road, Lost Nation Road, and VT Route 15.

4. Protection of public health, safety, and welfare

The proposed project will not impact public health, safety, or welfare. In an e-mail dated October 16, 2019, the Police Chief requested adequate lighting and limited landscaping around the entire building to deter criminal activity; landscaping and lighting are reviewed in Findings I(G) and (F), respectively. The Police Chief also noted that any building alarms must be registered with the Police Department and monitored by a third-party company such as Central Station in Stowe.

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 site is located within the Town Center area and is surrounded by extensive development, and the site has already been altered from its original state. The proposed building site is flat and open except for a depression in the center for a stormwater catch basin. Minimal grading would occur to level the site for the building, and two trees on the southern portion of the site would be removed.

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

There are no surface waters or wetlands present on the site.

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. Though Mt. Mansfield and Camel’s Hump are visible from the western side of the site, the property is not located within the Scenic Resource Protection Overlay (SRPO) district and has been designated for development since the original Lang Farm subdivision approval.

(C) ZR Section 5.6 (C), Access

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.

Vehicular access would be provided through an existing private service road off Carmichael Street due to the difficulty of providing a curb cut on Carmichael Street so close to its intersection with Essex Way. There is an existing curb cut on the private access road, but it is located very close to the intersection with Carmichael Street, which may lead to vehicle backups and challenges with turning radii, so the applicants have proposed relocating this curb cut further south. The applicants provided a full study of traffic demands and impacts to nearby intersections of Carmichael Street, Essex Way, and VT Route 15. The study estimates that there would be a total of 29 PM peak hour trips, 19 of which would be generated as a result of the proposed development, with the remaining 10 comprised of existing pass-by traffic.

Adequate pedestrian access to the site would be provided by a new sidewalk running approximately 250 feet along the western side of the site, connecting the existing sidewalk along Carmichael Street to the internal sidewalks of the Eurowest property.
Internal pedestrian circulation is reviewed further in Finding I(D).

In a memorandum dated November 6, 2019, Public Works staff stated:

There does appear to be some negative impacts due to the proposed traffic from the new bank including any change in Level of Service (LOS) at the intersection of Carmichael Street and Essex Way. Table 4 on page 12 shows that the LOS of all East Bound traffic from Carmichael Street at the Essex Way intersection will decrease in the PM hour from a LOS of C to a LOS of D. Public Works is not concerned about this slight negative impact, knowing the existing traffic patterns within the study area and the Town Center will change as the final construction of Carmichael Street is completed in the future.

As noted on page 13 of the traffic study, the applicant will be required to pay a State traffic impact fee under the requirements of Act 145. The applicant will also be responsible for paying a local traffic impact fee to the Town of Essex for all new traffic impacts created by the proposed bank within the Essex Way and Town Center corridor. These impacts will be mitigated through payment of the corridor impact fee which will be put towards future identified traffic improvements. Public Works recommends the road impact fee be paid prior to issuance of a zoning permit.

\[(19\ \text{PM peak trips}) \times \$277.00\ \text{per PM peak trip} = \$5,263.00\]

All vegetation along the western side of the access road to the Eurowest property from Carmichael Street must be removed in order to provide adequate sight distance around the corner for vehicles to drive south onto the drive.

In the project narrative dated November 27, 2019, the applicants stated that the referenced vegetation along the access road would be cut back. In response to a discussion at the November 14, 2019 hearing, the applicants have also proposed a stop sign to the northbound approach to the three-way intersection near Sweet Clover Market.

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

The Zoning Regulations require the Planning Commission to consider on-site vehicular and pedestrian circulation, and allow the Commission to impose conditions to ensure adequate circulation as well as safety and accessibility.

The layout of the site would allow adequate emergency vehicle access, facilitate traffic and pedestrian movements (including waste pickup), and prevent traffic conflicts along public streets. Furthermore, Sheet SP102 demonstrates adequate provision for accessibility under the Americans with Disabilities Act. The proposed snow storage areas located around the outside edge of pavement circling the site appears to be adequate for typical snowfall.

However, as noted in Finding I(A)(3), the site is largely designed around automobiles rather than non-motorized use. Pedestrian safety would be improved with a layout that provides direct pedestrian access from the street, rather than one requiring pedestrians to cross at a point through which all vehicular traffic runs.
ZR Section 5.6(E), Parking

Parking must be provided in accordance with Section 3.9 of the Zoning Regulations. Parking areas should be located to minimize their visibility, 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 bank with drive-through are 1 space per 200 square feet of gross floor area, plus 6 queuing spaces for each drive-through window.

As a result of discussions at the November 14, 2019 hearing, the applicants revised the site plan to show only three drive-through lanes, rather than four (the extra passing lane remains). However, it is noted that the original traffic study and architectural renderings presumed only three drive-through lanes. In any case, with 3,500 square feet of floor area and three drive-through lanes, the proposed bank would require 18 parking spaces and 18 queuing spaces, rather than the 24 originally required. Under ZR Section 3.9(H), one of the parking spaces must meet ADA van-accessibility standards.

The applicants have proposed 20 parking spaces, two in excess of the number required, and there appears to be queueing space for up to 18 cars in total across the three drive-through lanes. The area of the total front-yard setback dedicated to parking appears to be less than 50%, even including drive aisles to access the parking spaces.

A further reduction in the number of proposed parking spaces and drive-through lanes is strongly supported, as it appears that the proposed parking and drive-through capacity far exceeds the estimated demand. The traffic study estimates that there would be a peak of 29 vehicle trip ends (VTEs) in the PM hour, 15 of which would be entering and 14 exiting (thus, one vehicle remaining at the end of the hour). The applicants propose up to 10 employees for the building, leaving at least 10 parking spaces for customers. Assuming that the average duration of a drive-through visit is 5 minutes, and that of a walk-in visit is 20 minutes, the proposed parking and drive-through capacity would accommodate approximately 30 walk-in trips and 36 drive-through trips per hour, for a total of 66 trips.

As noted in Finding I(A)(3)(d)(iv), if less space on the site were dedicated to parking, access aisles, and the drive-through, more could be dedicated to other amenities such as pedestrian access, civic space, or landscaping (or even an additional building). Also, location of the building closer to Carmichael Street would achieve a better transition with the streetscape and improved engagement with the public realm.

Sheet C003 shows that adequate bicycle parking would be located on the northwestern corner of the building, near the primary site entrance. One ADA-accessible space is proposed; however, it is only 8 feet wide, though the access aisle is sufficiently wide (8 feet or 96 inches). This must be corrected on the final plans.

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 objectives require one street tree for every 50 feet of road frontage; with 384.4 feet of frontage along Carmichael Street and Essex Way, 8 street trees (rounded up from 7.7) are required.

The landscaping plan on Sheet SP301 involves retaining three existing mature butternut trees along Essex Way (as well as three spruce trees along the southern property line). Five new street trees, comprised of a mix of Sienna Glen red maple and Shademaster honeylocust, would be planted along Carmichael Street and Essex Way. Furthermore, the applicant plans to retain several other trees throughout the site and would add street trees along the private service road.

As noted in Finding I(H), several of the proposed trees are located close to underground utility lines; where possible, new trees should be located at least 10 feet away from underground utilities.

2. Parking Areas

The landscaping objectives require screening of parking areas from roadways and landscaped islands to break up and provide shade on large expanses of parking.

The landscaping plan meets these requirements by including a dense planting strip along Carmichael Street and Essex Way to screen the parking areas from roadways. In addition, one Shademaster honeylocust tree is proposed within each of the two internal parking lot islands, which will maintain a clear visual area between 36 and 60 inches above ground surface.

3. Planting Strip

The landscaping objectives call for a planting strip including shrubs, bushes, and/or trees that covers 30% of the front yard setback along the front of the lot; this area must be kept free of buildings and parking areas. The applicants have proposed a planting strip composed of shrubs and grasses along Carmichael Street and Essex Way, in addition to the existing and proposed street trees.

The planting strip does not extend along the entire length of the two frontages, and is slightly less than the required 30% depth of the front yard setback along Essex Way. This is due to conflict with existing underground utilities, and partly to the need to maintain visibility at the intersection of Carmichael Street and Essex Way. Given these limitations, the proposed landscaping plan generally meets the planting strip requirement.

(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 SE101 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 maximum illumination
(13.2 foot-candles) would exceed 7 foot-candles under the drive-through canopy, this is
advisable to improve safety, and the uniformity ratio outside the canopy area is within the
recommended average-to-minimum of 5:1.

Some light spillover in excess of 0.2 foot-candles onto Carmichael Street would occur,
but it would in fact improve lighting along the roadway by illuminating a public sidewalk
in an urban setting. The Planning Commission must provide a waiver under ZR Section
5.6(G)(5) to allow this light trespass.

At the November 14, 2019 hearing, the Planning Commission expressed concern that the
building’s internal lighting would be visible and distracting from the roadway, given its
extensive glazing and size and height of the foyer. The applicant indicated that exterior
glazing would be tinted to prevent glare and spillover to the building’s exterior.

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

1. Water Supply and Sewage Disposal

In a memorandum dated November 6, 2019, Public Works stated:

*The applicant’s engineer has stated there will be 10 employees maximum to be
located at the new building at 21 Essex Way. The proposed bank would fall under
the category of use “offices” as noted on Table 10.12.380 of the Town’s Water
Use Ordinance. This category of use has a domestic water and sewer demand of
15 GPD per employee. Staff calculates the water and sewage usage for the
proposed building as follows:*

(10 Employees) X 15 GPD/Employee = **150 GPD**

*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.*

_a._ Water: 150 GPD x $5.73/gallon + $1000 = **$1,859.50**

_b._ Sewer: 150 GPD x $10.30/gallon + $1000 = **$2,545.00**

_c._

**Total = $4,404.50**

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

Public Works also provided several other requirements for the design of water and
sewer infrastructure. These are listed under the proposed conditions of approval, or
else have been addressed by the applicant as confirmed by Public Works in an e-mail
dated December 17, 2019.

Finally, where possible, trees and underground utilities should be separated by at least 10 feet to avoid conflicts between root systems and utility infrastructure.

2. Stormwater Management

Though the proposed bank lot will no longer be part of the PUD-C, stormwater treatment would be integrated with the existing system designed for the Town Center area, which collects stormwater from the area and directs it to a series of detention ponds south of the area along the frontage with VT-289. This system is owned and maintained under an agreement between the Town and the owners of 21 Essex Way (Eurowest Retail Partners, LTD), 23 Essex Way (Hannaford Bros. Co.), and 74 Upper Main Street (HDI Real Estate, Inc.). The owner of the proposed parcel (SeaComm) would become a fifth party to that agreement in order to use the ponds to meet the flow restoration requirements of the State Stormwater Management Rule. The applicant must coordinate with Public Works and the other landowners to amend this stormwater agreement.

However, under the latest Rule, the proposed parcel must also meet water quality standards for stormwater that the retention ponds are not equipped to meet. The applicants have proposed a bio-retention area on the site of the proposed bank to meet this requirement, with overflow directed into the retention ponds. The applicants will submit a stormwater permit to the State after local approval.

In a memorandum dated November 6, 2019, Public Works staff noted several requirements related to stormwater, which are listed in the proposed conditions of approval.

3. Utilities

There are numerous public and private utility lines that would be relocated as part of the proposal. Public Works has reviewed and approved the utility relocation plan except as noted herein and in the proposed conditions of approval.

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

As noted in Finding I(D), aisle widths and turning radii are sufficient to allow access to all sides of the building by emergency vehicles. Though the clearance height of the drive-through is too low for the Town’s fire apparatus, a passing lane has been provided to allow passage around the drive-through. In an e-mail dated October 16, 2019, the Fire Chief stated that the building must meet the 2015 Essex Fire Department Building Standards (attached), and that any fire department connection (FDC) should be located away from the drive-through structure. Furthermore, emergency contact information must be kept current with the Essex Police Dispatch Center, in addition to any third-party monitoring company.

II. Additional Findings by the Planning Commission
• The Planning Commission finds that the proposed light spillover onto Carmichael Street by exterior lighting is advisable in that it illuminates a sidewalk on a major pedestrian route in an urban area. 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 Carmichael Street right-of-way. However, this waiver does not extend to spillover by any interior lighting.

**Proposed Conditions**

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

2. The applicant shall record a mylar in the Land Records no more than 180 days from the date of the written Final approval, otherwise the subdivision is void. The mylar and three (3) paper copies shall be submitted to the Community Development Department for review and Planning Commission signature at least two weeks prior to the 180-day statutory recording deadline.

3. Prior to the recording of the mylar, the applicant shall install monuments and lot markers to the standards specified in Section 4.11 of the *Subdivision Regulations*.

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

5. Prior to the issuance of a zoning permit, the plans shall be revised as follows:
   a. The width of the ADA parking space located north of the proposed building shall be increased to a full nine (9) feet;
   b. Proposed trees shall be located at least 10 feet away from underground utility lines unless approved by Community Development staff, in consultation with Public Works staff;

6. 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.

7. Prior to the issuance of a zoning permit, all easements, deeds, and other legal documents shall be submitted to the Community Development Department for review by the Town Attorney at the expense of the applicant. These include, but are not limited to:
   a. 50-foot-wide access easement over the 21 Essex Way parcel benefiting the 25 Carmichael Street parcel along the existing service road;
   b. Revised 20-foot-wide easements over the 25 Carmichael Street parcel benefiting the Town of Essex for water and sewer infrastructure;
   c. Revised 20-foot-wide easement over the 25 Carmichael Street parcel benefiting the
parties of the Town Center stormwater agreement for stormwater infrastructure;

d. Revised 10-foot-wide easement over the 25 Carmichael Street parcel benefiting the
   15 Essex Way parcel for water service infrastructure.

8. Prior to the issuance of a zoning permit, the applicant shall pay a traffic fee of $5,263.00, or
   the fees in place at the time of submittal for a zoning permit.

9. Prior to the issuance of a zoning permit, the applicant shall pay water fees ($1,859.50) and
   sewer fees ($2,545.00) totaling $4,404.50, or the fees in place at the time of submittal for a
   zoning permit.

10. 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.

11. Prior to issuance of a zoning permit, the applicant shall obtain final approval for the E911
    address, including the name of any private roads, from the E911 coordinator.

12. Prior to the issuance of a zoning permit, the design of any elevator installed in the building
    shall be approved by the Essex Fire Department.

13. The new storm water infrastructure and proposed bio retention system shall be private, and all
    maintenance and permitting will be the responsibility of the applicant.

14. The total lot coverage is 0.51 acres. Under the Town’s Storm water Ordinance, the applicant
    is required to follow the Small Site Erosion Control Guide. A copy of the guide can be found
    on the Town’s website.

15. The total disturbance for this project must remain under one acre. If the area of disturbance for
    construction on this site is greater than one acre, General Permit for Construction 3-9020 will
    be required. The applicant’s engineer shall verify that this project will not disturb more than
    one acre prior to issuance of building permit. A copy of the permit shall be submitted to Public
    Works prior to commencement of construction.

16. Calculations shall be submitted to Public Works by the applicant’s engineer demonstrating that
    the existing storm water ponds located on the Eurowest site behind the movie theater, are
    designed to treat additional storm water runoff. Also, the applicant’s engineer shall provide
    calculations to Public Works documenting the total phosphorus removed by the proposed
    stormwater infrastructure.

17. Prior to the issuance of a zoning permit, the applicant shall execute an agreement with the
    Town and the parties responsible for maintenance of the shared stormwater ponds to be utilized
    by the proposed development. The cost share shall be based upon the percentage of impervious
    surface contributed by each party to the agreement. All legal costs associated with the drafting
    and approval of this agreement shall be the responsibility of the applicant.

18. The applicant must apply for and receive a sign permit for any proposed signs (including flags);
    this approval does not constitute approval of the proposed signage depicted in the plans.

19. All utility lines shall be installed underground.
20. 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*.

21. The Town of Essex will own and maintain the water service valve located at the ROW. The applicant will be responsible for all service lines after this first service valve. A representative of the Town of Essex shall be present during installation of the service wet tap.

22. 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.

23. Any Fire Department Connection shall be a 5-inch Storz connection and shall be installed on a façade other than the southerly (drive-through) façade.

24. 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.

25. Prior to the issuance of a certificate of occupancy, all vegetation along the west side of the access road must be cut back to allow traffic visibility around the turn. Visibility at this intersection shall be maintained in perpetuity by the landowner.

26. All landscaping and screening shall be guaranteed for the life of the project. Any dead or diseased plantings shall be replaced as soon as seasonally possible; damaged fencing or screening shall be repaired immediately.

27. All pavement shall be maintained in a state of good repair for the life of the project; line striping shall be maintained so as to be visible at all times.

28. The applicant shall maintain current emergency contact information with the local dispatch center, in addition to any third-party monitoring company.

29. 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.

**Attachments**

- Essex Fire Department Building Standards, revised January 2015.
Site Plan
25 Carmichael Street
January 9, 2020

cc: Peter Edelmann, Eurowest Retail Partners, LTD
cc: Scott Wilson, SeaComm Federal Credit Union
cc: Joe Bullister, PW Campbell

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