Proposal: The applicants are proposing to construct a 2,886 SF drive-thru restaurant on property located at 86 Center Road.

History: The lot consists of the Shopping Plaza, known as 90 Center Road; a bank building, known as 100 Center Road; and the proposed location of the restaurant, to be known as 86 Center Road.

Formerly a single-family house was situated at this site location; which was then converted to commercial uses and eventually torn down.

PROPOSED FINDINGS:

1) The landowner is Pomerleau Family Partnership, and the agent is Brian Waxler. The property is located at 86 Center Road, in the Town of Essex, Chittenden County, State of Vermont.

2) 86 & 90 Center Road consists of 13.03-acres; and 100 Center Road consists of a .89-acre. The combined frontage is 1,121.57 +/- . This lot is served by town water and town sewer. The property is located in the Center (CTR) Zoning District and Business Design Control (B-DC) Overlay District.

3) The application is being reviewed under the Town of Essex Outside the Village of Essex Junction Official Zoning Regulations, Article V, Section 5.7 Conditional Use.

(4) The following plans were submitted on behalf of this application and the site plan application:

- Sheet B1: “ALTA/NSPS LAND TITLE SURVEY POMERLEAU FAMILY, LC ESSEX SQUARE 86-100 CENTER ROAD, ESSEX, VERMONT” as drawn by Summit Engineering, Inc., dated 3/20/2018, last revised 8/22/18;
- Sheet 1 of 6: “EXISTING CONDITIONS PLAN BURGER KING RESTAURANT ESSEX SQUARE POMERLEAU FAMILY LLC 86-100 CENTER ROAD, ESSEX, VERMONT” as drawn by SMM Environmental Engineering, dated 10 June 2019;
- Sheet 2 of 6: “OVERALL SITE PLAN BURGER KING RESTAURANT ESSEX SQUARE POMERLEAU FAMILY LLC 86-100 CENTER ROAD, ESSEX, VERMONT” as drawn by SMM Environmental Engineering, dated 10 June 2019;
- Sheet 3 of 6: “DETAILED SITE PLAN BURGER KING RESTAURANT ESSEX SQUARE POMERLEAU FAMILY LLC 86-100 CENTER ROAD, ESSEX, VERMONT” as drawn by SMM Environmental Engineering, dated 10 June 2019;
- Sheet 4 of 6: “EPSC DETAILS AND NOTES BURGER KING RESTAURANT ESSEX SQUARE POMERLEAU FAMILY LLC 86-100 CENTER ROAD, ESSEX,
(5) Pursuant to state statute a ‘Notice of Hearing’ was provided to the applicant for posting on the property.

(6) The abutting property owners were notified of this meeting by certified mail.

(7) The applicants were mailed a copy of this Staff Report prior to the meeting.

(8) ______________ spoke on behalf of this application. No one from the public commented on
this application OR ________________ provided the following comments on this application.

(9) In an email dated 7/25/2019, Public Works stated,

Public Works takes no exception to the proposed use of the above referenced property. Further comment will be provided regarding water, sewer, stormwater and traffic flows as part of Public Works review for the Planning Commission hearing on September 12, 2019.

(10) In an email dated 7/5/2019, The Fire Chief stated,

The Fire Department has concerns over the increased traffic from this project on the intersection with VT Route 15, and the internal parking lot.

The parking lot’s main travel lane is straight into the front of the shopping complex. This lane is too narrow along the front of the Price Chopper as pedestrians leaving the store have no room to step out of the doors without being directly in the travel lane. This is a danger currently and will only increase with vehicles passing through to get to the drive-thru lanes of the restaurant. If approved, both sides of the current lane be marking with no parking fire lane signs. Also, the fire lane shall extend past the Price Chopper directly to the drive through lane around the back of the restaurant (currently it is marked to have parking spaces there). The lane around the back of the restaurant must have a minimum clear width of 12’ with no overhead obstructions per NFPA Code to allow for a fire lane around the building.

The intersection of the shopping center and VT Route 15 must be upgraded to allow for commercial vehicles to safely navigate in and out of this property. Commercial vehicles that currently leave the Price Chopper will travel along the side closest to the proposed restaurant out to the last lane closest to Route 15 and turn towards the intersection. They then must use both lanes to swing the corner out onto Route 15 and again use multiple lanes to turn onto Route 15 westbound. This causes those vehicles to travel into the oncoming lane. The traffic survey that is attached to this Application has identified this intersection as a HIGH CRASS rate intersection. I recommend the Applicant work more closely with the Agency of Transportation to improve the vehicle safety at this intersection, and include commercial vehicles in their data (which is not mentioned in the traffic study attached).

Comments on the building itself:

As mentioned above, there shall be a dedicated fire lane around the building. The Fire Department Connections (FDC) shall be located on the South side closest to the Vermont Route 15, and within 50 feet of a fire hydrant.
The building will need to have a Supra Box and have all utilities properly labeled per our existing document already on file.

The physical street address shall be labeled in contrasting colors on the upper corner facing the approach lanes (south east corner).

All other interior portions of the building will need to comply with the Office of the State Fire Marshal.

(11) In an email dated 7/8/2019, the Police Chief stated,

I concur with Chief Cole’s comments.

(12) Pursuant to Section 5.7 (Conditional Use) of the Zoning Regulations, the Zoning Board reviewed the applicant’s written responses to this criteria, as follows:

A(1) Capacity of existing or planned community facilities:

The proposed Burger King project is not anticipating effecting existing or planned community facilities. Regarding utility services the project intends to utilize existing service connections for water and sewer. The project will comply with the state Wastewater Disposal Water Supply permit requirements. The project will pay required impact fees as deemed necessary for municipal services. The project does not anticipate affecting Public Safety in regard to demands on the fire or police department. The proposed project does not anticipate affecting the local school system. The project phasing is intending to take up to 24 months to construct from date of permit approval for construction. This proposed project is not anticipating imposing a demand on facilities that either exceeds existing or planned capacity.

(2) Character of the area affected:

The Burger King project is being proposed on an existing developed commercial site in the Center District (CTR). The existing project site contains a shopping center that is comprised of a Price Chopper Grocery store and several businesses; Good Taste, Family Dollar, Little Caesar’s, and Lee’s Nails. The character of the surrounding area is that of mixed-use development with commercial and residential uses. The project site is bounded by Essex Discount Beverage and Deli 280 feet to the west, Potvin Auto 100 feet to the east, and a collection of residential and commercial properties on the south side of VT Route 15.
(3) Traffic on roads and highways in the vicinity:

The application includes a complete Traffic Report prepared by L&D Engineering. Based on the results of the traffic study the analysis concludes this proposed project will not create undue levels of traffic congestion or unsafe conditions on the adjacent roadway network. Additionally, payment of the ACT 145 transportation impact fee will mitigate this project impact at more distant off-site intersections which are presently experiencing traffic congestion and or safety concerns. The vehicular circulation access to the project site will be attained by utilizing the existing curb cut to VT Route 15 for the existing shopping center, which helps to minimize ingress and egress to VT Route 15.

(4) Bylaws and ordinances in effect:

The proposed Burger King project is intending to meet the Town Zoning Regulations dated 2/28/2017 as noted for the CTR zoning district. The proposed Burger King is classified as a “Restaurant” under the zoning regulation definitions (pg. 169). This classification is considered an allowable Conditional Use for the CTR district.

(5) Utilization of renewable energy resources:

The proposed project will be utilizing power provided by Green Mountain Power (GMP). Currently “GMP’s energy sources are 60% renewable and 90% carbon free” (source GMP website). The proposed project is also using energy efficient LED light poles for the parking lot lighting.

(B) Specific Standards. In addition the preceding general standards, the Board shall also consider, and may impose conditions as necessary with regard to:

(1) Conformance with the Town Plan – Applications for conditional use approval shall conform to specific, applicable policies and objectives of the Town Plan of record.

The proposed Burger King project conforms to the Essex Town Plan adopted March 1, 2016. The project is being proposed on an existing developed commercial site in the CTR zoning district. This project is in alignment with the current Town Plan’s Economic Development Policies by promoting infill development on existing commercial zoning districts and by expanding businesses of existing commercial sites. The proposed project is in compliance with all State environmental standards.

“2(S).1: Infill development within existing industrial and commercial zoning
districts shall be promoted.’’ (Town Plan pg. 28)

“2(S).2: The retention and expansion of businesses at existing industrial and commercial sites shall be supported’’ (Town Plan pg. 28)

“2(S).7: Economic development shall occur in balance with environmental standards.’’ (Town Plan pg. 28)

The proposed project does not impact or effect meaningful open space, wildlife habitat, water resources, floodplains, unique geological features or primary agricultural soils as identified in the Town Plan.

(2) Site plan review criteria – The Board of Adjustment may apply any applicable site plan review criteria under Section 5.6 in its review of conditional use applications that do not require site plan review and approval as it deems necessary to fully evaluate a proposed conditional use under the criteria of this section.

The proposed Burger King project conforms to the Essex Town Plan adopted March 1, 2016. The project is being proposed on an existing developed commercial site in the CTR zoning district. This project is in alignment with the current Town Plan’s Economic Development Policies by promoting

(3) Conformance with community character – The Board of Adjustment may consider whether the development has an undue adverse effect on the character of the community as specifically expressed in the policies and objectives of the Essex Town Plan.

The proposed Burger King project is in keeping with existing community character for the CTR zoning district. The project will not affect historic or scenic resources as identified in the Town Plan. The project is being proposed on an existing developed commercial site in the Center District (CTR). The existing project site contains a shopping center that is comprised of a Price Chopper Grocery store and several businesses; Good Taste, Family Dollar, Little Caesar’s, and Lee’s Nails. The character of the surrounding area is that of mixed-use development with commercial and residential uses. The project site is bounded by Essex Discount Beverage and Deli 280 feet to the west, Potvin Auto 100 feet to the east, and a collection of residential and commercial properties on the south side of VT Route 15.

(13) Pursuant to Section 5.7 of the Zoning Regulations, the Zoning Board finds the following:
[THE ZBA MAY AMEND THE ANSWERS BELOW ONCE REVIEW OF APPLICATION IS COMPLETE.]

a. There will be no adverse effect on the capacity of the existing or planned community facilities;
b. There will be no adverse effect on the character of the area/neighborhood affected;
c. There will be no adverse effect on traffic on roads and highways in the vicinity;
d. The proposed use will be in compliance with the bylaws now in effect;
e. The proposed use will not adversely affect utilization of renewable energy resources;
f. The proposed use is in conformance with the Town Plan;
g. The proposed use does not require site plan review; and
h. The proposed use is in conformance with community character.

PROPOSED CONDITIONS:

1. This approval is not valid until Planning Commission Site Plan approval has been granted.
2. Prior to the start of construction, the applicant shall submit a Zoning Permit and associated fees.
3. A Certificate of Occupancy inspection shall be scheduled with the Zoning Administrator upon completion of construction.
4. The applicant shall file an Energy Certification, as required by Efficiency Vermont, in the Town Land Records.
5. All previous conditions, except as modified herein, remain in effect.
6. By acceptance of the conditions of this approval without appeal, the applicant confirms and agrees for himself 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.