ESSEX PLANNING COMMISSION
April 30, 2020

86 / 90 Center Road: Site Plan Amendment

Staff report 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.

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

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;
Site Plan  
86/90 Center Road  
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- 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 02/12/2020;
- 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 02/12/2020;
- 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 02/12/2020;
- Sheet #DT.2, “Details and Notes, Burger King Restaurant, Essex Square Pomerleau Family, LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering, dated 02/12/2020;
- Sheet #DT.3, “Details and Notes, Burger King Restaurant, Essex Square Pomerleau Family, LLC, 86-100 Center Road, Essex, Vermont,” prepared by SMM Environmental Engineering, dated 02/12/2020;
- Sheet LA-1.00, “Site Plan with Wetland and Buffer Impacts, Burger King Restaurant, Essex Square, Essex, Vermont,” prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- Sheet LA-2.00, “Landscape Plan, Burger King Restaurant, Essex Square, Essex, Vermont,” prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- Sheet LA-2.01, “Landscape Details, Burger King Restaurant, Essex Square, Essex, Vermont,” prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- Sheet LA-2.02, “Landscape Details, Burger King Restaurant, Essex Square, Essex, Vermont,” prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- Sheet LA-3.00, “Lighting Plan, Burger King Restaurant, Essex Square, Essex, Vermont,” prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;
- Sheet LA-3.01, “Lighting Details, Burger King Restaurant, Essex Square, Essex, Vermont,” prepared by VHB, Inc., dated 06/10/2019, revised 02/12/2020;

(A) 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 district 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) 76 ft.</td>
</tr>
<tr>
<td>Maximum Front Setback (from ROW)</td>
<td>40 ft.</td>
<td>(Burger King) 76 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>48.3 %</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>40 ft.</td>
<td>22 ft.</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

(a) Purpose, Goals, and Objectives

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

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

(b) Design Requirements for all B-DC districts

i. Relationship of Buildings to Surrounding Areas

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

However, the placement of the building approximately 180 feet away from the plaza’s main building does not match the spacing of the bank on the opposite side of the plaza, which is approximately 120 feet. This is in conflict with ZR Table 2.16(E)(4) and, combined with the heavily-landscaped island, visibly
210 separates the proposed restaurant from the other parts of the plaza and does not accomplish a desirable transition with that east-facing 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 through its placement around a central plaza. It also would encourage more pedestrian pass-by traffic at other businesses within the plaza, enhancing economic stability and stabilizing property values. In addition, the drive aisle between the building and the plaza could be eliminated to reduce the site’s footprint (and remove any impacts on the wetland buffer and open space west of the plaza), or repurposed as a small civic space (green, plaza, or pocket park). This type of treatment is suggested in the 1986 design control standards and would create a better transition with the streetscape, encourage a pedestrian-friendly environment, and enhance the center’s sense of community by creating an outdoor social gathering space.

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 addition of landscaping around the stormwater treatment area on the revised plans, as well as retention of existing trees, improves the site’s visual appearance from VT-15 / Center Road. Though the added landscaped island east of the building provides sufficient screening and enhancement of parking areas, this landscaping could be expanded and/or redesigned as useful civic space if relocated between the building and the parking area, and if the extra drive aisle were eliminated.

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 Sheet A-2.1 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 tan as the primary color and accents of dark brown siding on the pediments and light brown brick veneer around the foundations and east entry.
However, the roof is flat except for four irregularly-spaced pediments that slightly above the rooftop, only two of which are gabled. Though this draws upon elements of the entablature of the plaza’s main building, the predominantly flat roof of the proposed restaurant fails to achieve the same effect as the appearance of dormers on the approximately mansard style of the main building, and certainly not of the gabled and hipped roofs of other buildings in the Center. Also, the windows are asymmetrically paneled, not double-hung sash, and the entry doors are fully glazed, rather than paneled in a traditional style.

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

iv. Access and Parking

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, given the existing layout of the plaza, parking is not located exclusively at the rear of the building. Given this, streetscape transition and engagement with the public realm take priority to better enhance community cohesion. Relocating the building closer to the plaza, eliminating the extra drive aisle, and placing the landscaping between the new parking aisle and the building would accomplish this.

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 conflict with the requirements of the B-DC and ZR Section 3.10. There are multiple signs proposed on the south and east elevations, where only one is allowed, and the total area of the proposed signs on the east elevation (105.87 SF) exceeds the maximum allowed (82.5 SF) based on the façade area per ZR Section 3.10(F)(5)(b). Finally, it is unclear whether the proposed sign lighting is indirect or reverse-channeled as allowed, or internally-lit, which is prohibited (including on the proposed menu boards). These conflicts must be resolved upon application for sign permits, at which time the Zoning Administrator also will determine whether the east (plaza-facing) and west (drive-through) elevations qualify for additional façade signs.

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

The height, orientation, access, and exterior façade design and materials of the proposed building meet the specific design requirements of the CTR district, as
As directed by the Planning Commission, the building was relocated outside the normal setback of 30-40 feet to better match the setbacks of adjacent buildings, as provided under Table 2.16(E)(7).

However, the location and spacing of the building is inconsistent with adjacent buildings elsewhere in the plaza, and the roof style is not compatible with other roof styles 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). However, as noted in Finding I(A)(3), the entire site could be shifted and rearranged so as to have no wetland buffer impact.

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.

(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.

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 parking area to reach the restaurant’s parking area and drive-through.

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 are 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.

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

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. In an e-mail dated March 16, 2020, the applicant provided certification from VTrans that the stop bar was in its properly permitted location.

### (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. The Planning Commission also must consider safety and accessibility, as required by the Americans with Disabilities Act.

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 between the proposed building and the existing drive aisle, separated by a landscaped island. 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). However, the extra two-way aisle providing parking east of the building creates a dangerous intersection at the drive-through entrance, where traffic may enter from three directions, with two long pedestrian crossings. This condition would be avoided by removing the extra drive aisle between the building and the landscaped island, with new parking located on the existing drive aisle and separated from the building by the landscaped patio.

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.

<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). 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).

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

Sheet SP.2 shows that bicycle parking would be located on the southern side 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 and utilities; 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.

<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>5426.3</th>
<th>5374.3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Allocation used</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchased Allocation</td>
<td>6663.0</td>
<td>6611.0</td>
</tr>
<tr>
<td>Unpurchased Allocation</td>
<td>255.0</td>
<td>255.0</td>
</tr>
</tbody>
</table>

## Remaining Allocation

<table>
<thead>
<tr>
<th></th>
<th>1236.7</th>
<th>1236.7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Available Purchased</td>
<td></td>
<td></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>

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.

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 of approval.

### 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 the applicant has corrected or met. 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. Public Works recommends extending erosion matting on the slopes around Sand Filter 1 to the overflow channel for stabilization.

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.
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. The graphic scale on Sheet SP.2 shall be corrected to 1 inch = 20 feet.
   b. The landscaped island shall be moved adjacent to the east side of the building and adapted into an outdoor patio area. In addition, the extra drive aisle just east of the building shall be eliminated, and the entire site accordingly shifted east outside of the wetland buffer area.

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. The cold storage and waste enclosure areas shall be screened with materials matching the proposed building, including tan or dark brown horizontal siding or matching brickwork.

15. 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.

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

17. 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

- “Proposed Burger King – Essex Square, 86 Center Road, Alternate Layout with Landscaped Plaza,” prepared by Darren Schibler, dated 03/20/2020

cc: Brian Waxler, Pomerleau Real Estate

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