

1 ESSEX PLANNING COMMISSION
2 January 13, 2022

3 **108 Center Road & 18 Towers Road – Boundary Adjustment & Major**
4 **Subdivision (Preliminary & Final)**

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29 **Summary**

30 The applicant proposes a reconfiguration and 6-lot subdivision of several parcels totaling
31 approximately 20 acres in the historic Essex Center area. New single-unit or duplex structures
32 would be built to maximize the buildable area of Lots 1-3; future development of up to 30 new
33 dwellings and/or a range of commercial uses is anticipated on the remaining lots, subject to
34 additional Town review. Formal establishment of the Fleury Road right-of-way, a prerequisite
35 for the subdivision, has been approved by the Selectboard subject to an appeal period. The
36 applicant also has provided required utility easements and a recreation path easement from
37 Fleury Road to the Essex Square shopping center. Staff recommend granting final approval.

38 **Applicants**

39 Towers Trust	Sally Fleury Revocable Trust
40 c/o Sally Fleury & Shawn Bedard	c/o Sally Fleury
41 18 Towers Road	18 Towers Road
42 Essex, VT 05452	Essex, VT 05452

43 **Proposal**

44 The applicants' proposal involves three separate properties and two Planning Commission
 45 approvals. All the proposed changes are noted in the table below.

TT-SFT-EC Project Proposed Acreage Changes	Existing Acres	After ROW Survey	After BLA 1	After BLA 2	After Subdivision
Fleury Road ROW (Town of Essex)	0.96	0.64	N/A	N/A	N/A
18 Towers Road (Sally Fleury Trust)	0.795	0.757	N/A	0.757	N/A
110 Center Road (Doane)	0.41	N/A	0.53	N/A	N/A
108 Center Road (Towers Trust), aka Proposed Lot 6 (vacant)	18.585	18.540	18.43	18.43	8.61
Proposed Lot 1 (existing barn)	0.00	N/A	N/A	N/A	0.78
Proposed Lot 2 (vacant)	0.00	N/A	N/A	N/A	1.49
Proposed Lot 3 (existing dwelling)	0.00	N/A	N/A	N/A	0.54
Proposed Lot 4 (104 Center Road)	0.00	N/A	N/A	N/A	2.52
Proposed Lot 5 (vacant)	0.00	N/A	N/A	N/A	4.37

46
 47 **Existing Conditions:** The Sally Fleury Revocable Trust (SFRT) owns a 0.796-acre property at
 48 18 Towers Road (Parcel ID 2-058-003-000). Towers Trust (TT) owns an 18.43-acre property at
 49 108 Center Road (2-058-001-000), which includes three existing buildings (two automotive
 50 repair shops, Potvin Auto and Classic Bike Experience, addressed as 104 Center Road; a single-
 51 unit dwelling at 108 Center Road, and a barn addressed at 24 Towers Road). Finally, Essex
 52 Cubed, LLC (Essex³) owns a 0.41-acre property at 110 Center Road (2-058-003-000).

53 **ROW Survey:** As part of the survey of the existing Town Highway known as Fleury Road,
 54 which was approved by the Selectboard as a two-rod (33-foot) right-of-way on November 1,
 55 2021, the Town of Essex will receive 0.038 acres from the SFRT parcel and 0.045 acres from the
 56 TT parcel. This is subject to a 120-day appeal period (ending March 1, 2022).

57 **Boundary Adjustment (BLA) 1:** TT proposes a boundary line adjustment (BLA) to convey
 58 5,349.40 square feet (0.12 acres) from 108 Center Road (Parcel 2-058-001-000) to 110 Center
 59 Road (Parcel 2-058-003-000), owned by Essex³, reviewed separately under consent agenda.

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60 **BLA 2:** SFRT proposes a land swap in which the 18.43-acre TT property at 108 Center Road
61 (Parcel 2-058-001-000) conveys two tracts of land totaling 0.16 acres to SFRT at 18 Towers
62 Road (Parcel 2-058-001-003), while in kind the SFRT conveys a 0.16-acre tract to the TT parcel.

63 **Subdivision:** BLA 2 is reviewed as part of the final application for a 6-lot subdivision of the TT
64 property (108 Center Road). The applicant plans to build a new duplex on Lot 1, a new single-
65 unit dwelling with accessory apartment on Lot 2, and to convert the single-unit dwelling on Lot 3
66 to a duplex. No construction on other lots is planned at this time.

67 **Background**

68 108 Center Road and 18 Towers Road have been owned by members of the Fleury family since
69 1948. USGS topographic maps from that year appear to denote the commercial structure at 104
70 Center Road, the dwelling at 108 Center Road, and the dwellings and outbuildings along Fleury
71 Road.

72 The single-unit ranch dwelling addressed as 108 Center Road was constructed in 1970, and is
73 currently rented by Towers Trust.

74 On May 11, 1977, the Zoning Board of Adjustment granted conditional use approval for an
75 automotive repair shop, retail automotive sales, and sign-making shop at 104 Center Road. The
76 automotive repair use has remained active since that time.

77 On August 12, 1994, Planning Commission approved design review for improvements to the
78 structure currently addressed as 16 Towers Road, the historic Essex Center railroad station.
79 Zoning Permit #1996-100 was issued for those improvements as well as conversion to a single-
80 unit dwelling.

81 The 1994 approval noted that Fleury Road was identified as Town Highway 29 (redesignated
82 Town Highway 708), a public road 3 rods (49.5 feet) in width, but no details of its location were
83 ever recorded.

84 In 1995, 18 Towers Road was deeded via Quit Claim Deed from Towers Trust.

85 On August 23, 2012, the Planning Commission approved a boundary adjustment in which 0.29
86 acres were conveyed from 108 Center Road (reducing it to 18.79 acres) to 18 Towers Road
87 (increasing it to 0.80 acres). Note 8 of this plat reiterated that Fleury Road is a 3-rod public road
88 for which no layout had been recorded previously.

89 On January 10, 2019, the Planning Commission approved a boundary adjustment conveying 0.21
90 acres from 108 Center Road to 112 Center Road (which was combined with 116 Center Road).

91 From at least 1997 until 2003, the building at 110 Center Road operated as LeBlanc Sports Shop.
92 On September 11, 2003, the Planning Commission granted design review approval to renovate
93 the building into professional offices.

94 On August 26, 2021 the Planning Commission approved the proposed subdivision sketch plan
95 proposed subdivision. In its findings, the Commission noted the potential for significant future
96 development on Lots 4 and 5, stating that potential impacts, required improvements and
97 conditions of approval will be evaluated if and when such development is proposed.

98 On November 1, 2021 the Selectboard accepted the survey of the Fleury Road right-of-way and
99 directed staff to acquire the necessary deeds from all abutters to document the right-of-way under
100 19 V.S.A. § 33. This formally establishes Fleury Road as a public road with boundaries as shown
101 on the survey.

102 Neighboring uses include one- and two-unit dwellings along Center Road, the Essex Square
103 shopping center to the west, a restaurant to the south, another automotive repair shop and a
104 lumber yard to the southeast, and pasture to the north.

105 **I. Article II of the Subdivision Regulations: Subdivision Procedures**

106 The applicant has submitted the following plans:

- 107 • Sheet #1, “6 Lot Subdivision, Sally Fleury Trust and Towers Trust, 18 Towers Road &
108 108 Center Road, Essex Junction, Vermont,” prepared by O’Leary-Burke Civil
109 Associates, PLC, dated 07/22/2021, revised 11/15/2021;
- 110 • Sheet #2, “30-Scale Site Plan, Sally Fleury Trust and Towers Trust, 18 Towers Road &
111 108 Center Road, Essex Junction, Vermont,” prepared by O’Leary-Burke Civil
112 Associates, PLC, dated 07/22/2021, revised 11/15/2021;
- 113 • Sheet #PL, “6-Lot Subdivision & BLA Plat, Sally Fleury Trust and Towers Trust, 18
114 Towers Road and 108 Center Road, Essex Junction, Vermont,” prepared by Joseph R.
115 Flynn, L.S., O’Leary-Burke Civil Engineers, PLC, dated 11/22/2021, revised
116 12/01/2021;

117 **(A) SR Section 2.2: Classification**

118 The applicants have requested approval for a 6-lot subdivision and boundary adjustment,
119 which falls under the definition of “Major Subdivision” according to Section 2.2 of the
120 *Town of Essex Outside the Village of Essex Junction Official Subdivision Regulations*
121 (SR). Major subdivisions require sketch, preliminary, and final review by the Planning
122 Commission.

123 **(B) SR Section 2.3: Review Process**

124 As noted in SR Section 2.4, the purpose of preliminary plan review is to address any
125 issues raised during sketch review, and to complete the major portion of engineering
126 review to ensure improvements and land alterations will comply with the standards of the
127 *Zoning and Subdivision Regulations*.

128 As noted in SR Section 2.4, the purpose of final plan review is

129 *to compare the plat for consistency with the approved Preliminary Plan or approved*
130 *Sketch Plan, to ensure that all engineering, survey and other data are complete, and*
131 *to ensure that the proposed subdivision is in compliance with all appropriate*
132 *regulations and standards.*

133 Under SR Section 2.1(B), the Planning Commission has the authority to waive the
134 requirement for separate submissions if it is deemed unnecessary for full review. Because
135 all preliminary and final submission requirements for this subdivision have been met,

136 staff recommends that these steps be combined, and have noticed the hearing thus.
137 As part of final subdivision review, the Planning Commission must also make a final
138 residential phasing allocation in accordance with SR Article III.

139 **II. Article II, Section 2.7 of the Subdivision Regulations: Master Plan**

140 The *Subdivision Regulations* (SR) require a master plan “for any project which is intended to be
141 developed in phases and for which approval of only one phase is currently requested, or for any
142 project where development of only part of the parcel is proposed and the remaining land exceeds
143 in area three times the minimum lot size in the district in which the subdivision is located.”

144 By accounting for natural constraints and open space, access ways, utility needs, and potential
145 uses of the proposed lots, the current proposal fulfills most of the goals of Master Plan review to
146 the extent possible at this point in time. Since further development of proposed Lots 4 and 5
147 would require site plan and/or subdivision review, and since the Essex Town Center Master Plan
148 (ETC|NEXT) provides sufficient guidance for future development of this area, a separate master
149 plan review is not necessary.

150 **III. Section 4.2 of the Subdivision Regulations: Subdivision Standards**

151 The Planning Commission must evaluate any proposed subdivision according to the subdivision
152 standards in Article IV, and may require modification or phasing of the proposed subdivision in
153 light of findings relating to those standards.

154 **(A) SR Section 4.1: Standards Applicable to All Subdivisions**

155 All subdivisions must conform to the general standards in SR Section 4.1. Not all
156 provisions of this section are reviewed here, as some are not relevant to this development
157 or are addressed through other provisions of the *Zoning* and/or *Subdivision Regulations*.

158 **1. SR Standard 4.1(P): Conformance with the Essex Town Plan**

159 The proposed project complies with the following goals and policies of the *2016*
160 *Essex Town Plan*:

161 **General Policy 1:** *Development shall occur in areas suitable for growth in a compact*
162 *manner as opposed to scattered development throughout Town.*

163 **Specific Policy 2(S).15:** *New housing shall be directed to areas identified as suitable*
164 *for growth, specifically the Town Center and the Susie Wilson Road corridor.*

165 **Goal 4c:** *Housing is located in areas convenient to employment, shopping, schools,*
166 *and public transportation.*

167 **General Policy 6:** *Land shall be conserved, and development avoided, in particularly*
168 *vulnerable areas such as floodplains and river corridors.*

169

170 The project also (potentially) supports these goals of ETC|NEXT Master Plan:
171 *Land Use Vision Concept 8: New residential areas take advantage of deeper existing*
172 *lots and potential access from Towers Road. Cottage style forms support housing*
173 *diversity within the ETC.*

174 *Transportation Vision Concept 6: An improved crosswalk to connect to a multi-use*
175 *path into the Price Chopper lot to support potential infill development.*

176 *Recreation and Open / Civic Space Concept 6: New infill developments that include*
177 *greenspaces and greenways to enhance the sense of place.*

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

179 The parcels are located in the Center (CTR) district and must conform to the
180 dimensional requirements and development standards listed in Table 2.8 of the *Town*
181 *of Essex Outside the Village of Essex Junction Official Zoning Regulations (ZR)*, as
182 well as Article III, General Standards, and any applicable provisions of Article IV,
183 Specific Standards.

184 The parcels are also located within the Business-Design Control Overlay District (B-
185 DC). However, the standards listed for the B-DC in ZR Section 2.16 do not apply to
186 single-unit dwellings or accessory uses, and no change is proposed to the commercial
187 building at 104 Center Road.

188 **(a) Table 2.8(A): Center (CTR) District Standards**

189 **i. Purpose**

190 The project reflects the purpose of the Center district by protecting historic
191 and scenic resources in the course of small-scale, high-density residential
192 development. It also conforms to the ETC|NEXT Plan by promoting infill
193 housing while allowing for a future neighborhood-commercial development.

194 **ii. Permitted and Conditional Uses**

195 Single-unit and duplex dwellings are permitted in this district. No conditional
196 uses are proposed.

197 **iii. District Dimensional Requirements**

198 The proposal generally conforms to the dimensional requirements in Table
199 2.8(D) as noted below (* denotes an existing non-conformity):

200

Dimensional Requirement		18 Towers Rd.	Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6
Minimum Lot Area (sf)	10,000	32,393	33,842	64,763	23,703	109,604	190,268	380,469
Minimum Lot Area per Dwelling (sf)	10,000	32,393	33,842	64,763	23,703	109,604	190,268	380,469
Minimum Lot Frontage (ft)	75	75	187.23	101.19	99.12	162.23	269.83	407.35
Minimum Front Setback (ft)	30	90	40	40	47	210	30	>370
Maximum Front Setback (ft)	40	*90	40	40	*47	*210	30	>370
Minimum Side Setback (ft)	10	22	42	10	27	30	10	10
Minimum Rear Setback (ft)	15	15	112	157	162	126	15	15
Maximum Lot Coverage (%)	70	< 70	< 70	< 70	< 70	12.6	N/A	N/A
Maximum Height (ft)	40	< 40	< 40	< 40	< 40	< 40	N/A	N/A

201 **iv. District Development Standards**

202 All new lots would be accessed off Fleury Road or Towers Road, rather than
 203 VT Route 15. Existing dwellings on Lots 3 and 4 may use existing curb cuts
 204 on Center Road / VT Route 15, or a potential new public road along the
 205 boundary with the Essex Square shopping center. The remaining Center
 206 district standards do not apply to the proposal.

207 **3. Protection of public health, safety, and welfare**

208 The proposed project will not impact public health, safety, or welfare. In an e-mail
 209 dated December 1, 2021, both the Fire Chief and the Police Chief stated that there
 210 were no concerns with the proposal, though as noted during sketch review, re-
 211 addressing will be required for any structure whose access would now be located off
 212 Fleury Road.

213 **4. Outstanding violations**

214 The property does not have any outstanding zoning violations.

215 **(B) SR Section 4.2: Standards Applicable to Minor Subdivisions**

216 In addition to the General Standards in SR Section 4.1, minor subdivision applications
 217 are reviewed against the standards in SR Sections 4.2 – 4.11.

218 **(C) SR Section 4.3: Preservation of Natural and Scenic Features**

219 The property contains several natural features that should be preserved or avoided during
 220 development.

221 **1. Scenic Features**

222 The northern part of the property offers sweeping views from Towers Road of the
223 little remaining farm and forestland within the Center District. Though not within the
224 Scenic Resource Preservation Overlay (SRPO) District, this vista was identified as
225 significant in *Views to the Mountain: A Scenic Protection Manual*. No development is
226 proposed that would obscure these views, but the normal requirement for street trees
227 should be waived to preserve the views.

228 **2. Natural Features**

229 There is a large Class II wetland delineated in the northern portion of the property,
230 and two smaller Class II wetlands delineated towards the south. The applicants' plan
231 identifies building envelopes for Proposed Lots 1 and 2, which follow the boundaries
232 of the Class II wetland buffers. No development is proposed currently near the other
233 wetlands, but future development on Lots 4 and 5 shall take place outside the required
234 50-foot buffers.

235 Fleury Road and a nearby portion of the property are within Flood Zone X as
236 identified by the Federal Emergency Management Agency, which indicates that there
237 is a 0.2% annual chance of flooding. This flood zone lies outside the Town's
238 Floodplain Overlay (C2) District. No development is proposed within this area
239 currently; if Fleury Road is used as an access for the future development of Lot 5,
240 drainage improvements may be required.

241 **3. New Trees**

242 SR Section 4.3(C) requires new street trees for every 50 feet of frontage along a
243 public road. Staff recommends that the normal requirement for street trees along
244 Towers Road be waived because they would obstruct documented scenic views.

245 Proposed Lot 2 would have 25.39 feet of frontage along Fleury Road, the entire width
246 of which will be used for the parcel's driveway due to the presence of wetlands along
247 its frontage on Towers Road. The proposed frontage along 18 Towers Road (75 feet)
248 currently includes the dwelling's driveway and a planted flower bed. The remaining
249 frontage along Fleury Road (approximately 270 feet for proposed Lot 5) is currently
250 wooded, but may become a new public road if Lot 5 is developed. No additional
251 street trees are required for this proposal.

252 **(D) SR Section 4.4: Blocks and Lots – Planning and Design Standards**

253 The layout of Lots 1, 2, 3, and 6 is appropriate given the locations of wetlands and
254 existing roads. Though these limitations prevent the creation of strictly conventional
255 blocks, Lots 4 and 5 are large enough and configured so as to allow for flexibility in
256 creation of new lots, structures, and accesses while avoiding delineated wetlands.

257 **(E) SR Section 4.5: Streets**

258 In a memorandum dated January 4, 2022 Public Works staff stated:

- 259 1. *It appears access for Lots #3 and #4 will be from the existing curb cuts located off VT*
260 *RT 15, (Center Road). The access for Lot #1 will be from Towers Road. Public Works*
261 *is of the opinion that any future development other than single family homes, for Lots*
262 *#2, #5, and #6, will require the upgrade of Fleury Road to meet the requirements of*
263 *Detail A-3, Type A Rural Road (Paved). Furthermore, depending on scale and design*
264 *of any development on Lot #5, the southern portion of Fleury Road will require an*
265 *upgrade to the cross-section referenced previously.*
- 266 2. *There may be a need for a future access through the 30-foot-wide access / utility*
267 *easement as Lots #4 and #5 apply for development.*
- 268 3. *Each of the new lots that do not have current access from an existing curb cut will*
269 *require submittal of a curb cut application prior to development. Public Works may*
270 *condition this application as needed to meet standards and safety concerns.*

271 **(F) SR Section 4.6: Sidewalks**

272 The project is located within ¼ mile of Memorial Hall, the Essex Free Library, the Town
273 Common and the Essex Common Burial Ground, as well as within 0.6 miles from Sand
274 Hill Park and the Mathieu Town Forest. These are accessible via well-maintained
275 sidewalks, including along Center Road on the frontage of Proposed Lots 3 and 4.

276 However, there is no crosswalk across Towers Road from Fleury Road, nor is there a
277 sidewalk along Fleury Road, an existing minor Class 3 gravel road. Under the current
278 proposal, would provide access to 8 new or existing lots (though road upgrades would be
279 needed to provide access to the parcels addressed 120 Center Road and 14 Towers Road).

280 Though the Planning Commission may require the installation of new sidewalks on
281 existing roads under SR Section 4.6(B), provision of new sidewalk is not required now
282 because the anticipated volume of pedestrian traffic is low and would not increase
283 significantly under the current proposal. However, future development of Lots 4 and 5
284 may trigger the need for new sidewalk along Fleury Road.

285 **(G) SR Section 4.7: Land for Public Open Space and Recreational Use**

286 Pages 36-37 of the ETC|NEXT Master Plan call for a multi-modal path following the
287 former railroad bed between Center Road (at Saybrook Road) and Towers Road (Fleury
288 Road). The proposal includes a 15-foot-wide easement for a portion of said path
289 extending westward from Fleury Road, over Proposed Lot 5 along the southern boundary
290 of the reconfigured 18 Towers Road parcel. This amenity would advance the vision in the
291 ETC|NEXT Master plan for both recreation as well as mobility and connectivity to
292 existing nearby neighborhood parks, greens, and paths.

293 All proposed dwellings would be subject to recreation impact fees prior to the issuance of
294 a zoning permit.

295 **(H) SR Section 4.8: Utility and Access Easements and Improvements**

296 The plat includes a 15-foot-wide access and utility easement to the Town along part of
297 the western boundary of Lot 4, which serves to expand the existing Town-owned parcel
298

299 along the eastern boundary of the Essex Square parcel (90 Center Road) to a consistent
300 30-foot-width. This would allow for installation and maintenance of water, sewer, and
301 stormwater lines serving Lots 4 and 5. If required, this easement also would allow for
302 installation of a new public road, or at minimum an emergency vehicle access, as noted
303 by Public Works in their January 4, 2022 memorandum.

304 In addition to these public easements, several private water and sewer easements serving
305 the new lots are included on the plat.

306 **(I) SR Section 4.9: Water Supply and Wastewater Systems**

307 The final plan submission shows locations of new water lines and sewer forcemains
308 required to serve new dwellings on Lots 2, 5, and 6 (all other lots have existing services).

309 In a memorandum dated January 4, 2022 Public Works staff stated:

- 310 1. *Please refer to the table below for a breakdown of sewer allocation to be distributed*
311 *between the new lots created by the 108 Center Road subdivision.*

312

313 **Existing Parcels**

314 *16 Towers Road 1 EU (200 GPD) Connected*

315 *18 Towers Road No assigned Allocation*

316 *20 Towers Road 1 EU (200 GPD) Connected*

317 *22 Towers Road 1 EU (200 PGD) Connected*

318

319 **108 Center Road** *40 EU (8,000 GPD) allocated on the sewer allocation map*

320 *Lot #1 2 EU (400 GPD)*

321 *Lot #2 2 EU (400 GPD)*

322 *Lot #3 2 EU (400 GPD)*

323 *Lot #4 12 EU (2,400 GPD)*

324 *Lot #5 15 EU (3,000 GPD)*

325 *Lot #6 4 EU (800 GPD)*

326 ***Total Requested 37 EU***

327

328 *There are still 3 EUs of sewer allocation associated with the original parcel.*
329 *Unfortunately, this sewer allocation cannot be transferred across existing lot*
330 *boundaries to lot #18 within the Town sewer core. This is not allowed per the existing*
331 *Sewer Allocation Ordinance.*

332 *Public Works recommends the following: The sewer allocation map will assign the*
333 *37 E.U to the various parcels as per above. The remaining 3 E.U will be transferred*
334 *to the undesignated reserve capacity. The current property owner of 18 Towers Road*
335 *can then apply for sewer allocation from the Town Selectboard for the existing lot*
336 *known as 18 Towers Road in the future as needed. Staff would support up to 3.E.U.*
337 *for 18 Towers Road.*

338 2. *The water distribution system as proposed for the Lots not currently connected to the*
339 *Town's municipal water system is not acceptable. The Town of Essex will require a*
340 *new 8 – inch municipal water line extension down Fleury Road, ending with a fire*
341 *hydrant at the future hammer head turn around. All future water service connections*
342 *to the new lots created with this subdivision shall be served off the new water*
343 *distribution extension.*

344 3. *Three of the existing four homes currently fronting Fleury Road are currently*
345 *connected to municipal sewer. Two existing homes utilize a single service. The sewer*
346 *infrastructure installed as part of the new connection to 20 Towers Road is a sewer*
347 *service only. Public Works will not accept multiple connections from additional lots*
348 *to this service. This will likely impact Lots 2, 5, and 6, as well as 18 Towers Road.*
349 *Public Works will require a proposed sewer design, and approval of the design for*
350 *the above referenced lots prior to approval of any sewer connection to the Towns*
351 *collection system.*

352 Public Works provided a rough utility design drawing with their memorandum.

353 **(J) SR Section 4.10: Stormwater Management and Erosion Control**

354 In a memorandum dated January 4, 2022 Public Works staff stated:

355 1. *As applications for individual lots are submitted for approval, the use of the Low-Risk*
356 *Site Handbook for Erosion Prevention and Sediment Control shall be required during*
357 *construction.*

358 2. *All future storm water infrastructure required for development on individual lots,*
359 *shall be installed in accordance with the specifications and details provided within*
360 *the Town of Essex Standard Specifications for Construction.*

361 **(K) SR Section 4.11: Monuments and Lot Markers**

362 Upon approval of the amendment and recording of the mylar, the applicants must adjust
363 and/or install lot markers and concrete monuments in accordance with SR Section 4.11.

364 **IV. Article III of the Subdivision Regulations: Residential Phasing**

365 Any proposed development that contains dwelling units and requires Subdivision Approval is
366 subject to Article III, Residential Development Phasing. The goal of residential phasing is to
367 maintain an annual population growth rate set forth in the 2016 Town Plan of between 184 and
368 226, aiming for the midpoint of the range at 205. Population growth is allocated to new
369 developments through Estimated Population Equivalents (EPEs), essentially equivalent to the

370 number of bedrooms in new dwelling units (but 5-bedroom units are counted as 4.5 EPEs).
371 Any single project outside the sewer core is allowed to add 5 dwelling units per calendar year.
372 The Planning Commission must act on a preliminary phasing request when a proposed
373 development obtains sketch plan approval. Final allocation is granted if the development secures
374 Final Plan approval.
375 The proposed project lies inside the sewer core area and would add a total of 5 dwelling units
376 and 11 EPEs in 2022. If granted final approval along with other projects seeking approval at
377 present, this project would bring the town-wide total phasing allocation to 48 dwelling units and
378 149 EPEs in 2022. This is below the targeted mid-point of 205 EPEs and would leave 56 total
379 EPEs available for allocation in 2022, 1 of which would be available outside the sewer core. A
380 summary of the running phasing tabulation is attached.

381 **V. Additional Findings by the Planning Commission**

- 382 • Pursuant to Section 2.1(B) of the *Subdivision Regulations*, the Planning Commission
383 waives the requirement for two separate submissions for preliminary and final review and
384 allows them to be combined, finding that this to be excessive and unnecessary for
385 approval of the 6-lot subdivision and proposed development on Lots 1, 2, and 3.
386 However, depending on the scale of development proposed on Lots 4, 5, and 6, further
387 review may be required in accordance with the *Zoning and Subdivision Regulations*.
- 388 • Pursuant to ZR Table 2.20(G)(5), the Planning Commission waives the requirement for
389 new street trees, finding that they would obscure important scenic resources.

390 **VI. Proposed Conditions of Approval**

- 391 1. All construction shall be in conformance with the plans listed above as may have been
392 amended by the Planning Commission and subject to other conditions and approvals.
- 393 2. All conditions from previous approvals shall continue to apply except as amended herein.
- 394 3. Prior to the issuance of a zoning permit, the plans shall be revised as follows and reviewed
395 and approved by Public Works:
 - 396 a) All water service connections shall be served by a new 8-inch C900 PVC main along
397 Fleury Road, with a new hydrant at the future hammer head turnaround and a future 8-
398 inch loop along the northern boundary of Lot 5 and western boundaries of Lots 5 & 4 to
399 Center Road.
 - 400 b) The sewer forcemain serving Lot 2 and 18 Towers Road shall be relocated to the
401 southern loop of Fleury Road to connect to the sewer manhole on Towers Road;
- 402 4. An electronic copy of the plans as may have been revised shall be submitted to the E911
403 coordinator in .PDF file format. Another copy shall be submitted in geodatabase or shapefile
404 in Vermont State Plane Meters, NAD83 (NSRS or most current); alternatively, coordinated

Boundary Adjustment & Preliminary / Final Subdivision
108 Center Road & 18 Towers Road
January 13, 2022

- 405 CAD data – Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD
406 83(2011) epoch 2010.0, NAVD 88 (geoid12b); alternatively, paper showing three (3) values
407 of State Plane Coordinates.
- 408 5. Following final approval, the applicant shall submit the mylar and three (3) paper copies to
409 the Zoning Administrator for review and Planning Commission signature at least two weeks
410 prior to the 180-day statutory recording deadline, otherwise the subdivision is void.
- 411 6. Prior to the filing of the mylar, all easements, deeds, and other legal documents shall be
412 submitted to the Community Development Department for review by the Town Attorney at
413 the expense of the applicant.
- 414 7. Prior to the recording of the mylar, the applicant shall install concrete monuments and lot
415 markers to the standards specified in Section 4.11 of the *Subdivision Regulations* and shall
416 submit a certified statement from the surveyor verifying the installation.
- 417 8. Upon recording of the mylar, the applicant shall submit to the E911 coordinator a shapefile
418 or PDF file of the plans containing all information specified in Section 2.10(H) and 2.10(I) of
419 the *Subdivision Regulations*.
- 420 9. A final phasing schedule is approved as follows:
- 421 a) Lot 1: 2 dwelling units with 2 EPEs each (4 total EPEs) in 2022;
- 422 b) Lot 2: 2 dwelling units, one with 3 EPEs and one with 1 EPE (total of 4 EPEs) in 2022;
- 423 c) Lot 3: 1 dwelling unit with 3 EPEs in 2022;
- 424 d) Lots 4, 5, and 6: no phasing approved at present. Final allocation shall be approved by the
425 Planning Commission prior to the issuance of zoning permits for these lots.
- 426 10. For any development on Lots 2, 5, and 6 other than single-unit dwellings, Fleury Road shall
427 be upgraded to meet the requirements of the Type A Rural Road (Paved), Detail A-3 of the
428 *Town of Essex Standard Specifications for Construction*.
- 429 11. Prior to the issuance of any zoning permits, the applicant shall obtain all applicable state
430 approvals and permits and shall submit copies to the Community Development Department.
- 431 12. Prior to the issuance of a zoning permit for each new dwelling, the applicant shall pay the
432 water and sewer connection fees in place at the time of the permit application submittal.
- 433 13. A curb cut application shall be included in the zoning permit application for any lot that does
434 not have access from an existing curb cut.

- 435 14. Prior to the issuance of a zoning permit for each dwelling, the applicant shall pay any
436 applicable recreation impact fees in place at the time of submittal.
- 437 15. All utility lines shall be installed underground.
- 438 16. All water, sewer, and storm water infrastructure (including for future lots) shall be installed
439 in accordance with the specifications and details provided within the *Town of Essex Standard*
440 *Specifications for Construction* and American Water Works Association standards.
- 441 17. Construction on all lots shall follow the Town's *Low-Risk Site Handbook for Erosion*
442 *Prevention and Sediment Control*.
- 443 18. No occupancy of each structure shall occur until a certificate of occupancy inspection and
444 sign off is issued by the Zoning Administrator.
- 445 19. By acceptance of the conditions of this approval without appeal, the applicants confirm and
446 agree for themselves and all assigns and successors in interest that the conditions of this
447 approval shall run with the land and the land uses herein permitted, and would be binding
448 upon and enforceable against the applicants and all assigns and successors in interest.

449 **VII. Attachments**

- 450 • Project narrative, "Towers Trust / Sally Fleury Trust Boundary Line Adjustment, Towers
451 Trust / Essex Cubed Property LLC Boundary Line Adjustment, Preliminary Final
452 Review for a Major Subdivision, 108 Center Road, Essex Junction, VT," from Ryan
453 Morse, E.I., O'Leary-Burke Civil Associates, PLC, dated 11/16/2021.
- 454 • Sheet #ROW, "Right of Way Plat for Fleury Road / TH708, Fleury Road, Essex,
455 Vermont," prepared by Joseph R. Flynn, L.S., O'Leary-Burke Civil Engineers, PLC,
456 dated 06/24/2021.
- 457 • Memorandum, "Towers Trust, Preliminary / Final, 6-Lot Subdivision, 108 Center Road,"
458 prepared by Dennis Lutz, P.E., Public Works Director, Aaron Martin, P.E., Director
459 of Public Works Operations, and Annie Costandi, P.E., Stormwater Coordinator /
460 Staff Engineer, dated January 4, 2022.
- 461 • Residential Phasing Record, dated 1/13/2022.

462

463 Copy: Joe Flynn, L.S., O'Leary-Burke Civil Associates, PLC

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