

# Dissenting Opinion

Decision ID: 2018-07-062.2

Applicant: Orchid, LLC

Dissenting Opinion By: Kyle J. Emge - Town of Manchester, VT -  
Development Review Board Member

This dissenting opinion is provided based on the review and interpretation of Manchester Land Use and Development Ordinances, and the goals and priorities outlined in the Town Plan & Town Energy Plan.

**A. Pedestrian & Bicycle Access (Applies to the “Parking, Circulation & Traffic” of the Development Review Board decision).**

The application and applicant did not proactively and accurately provide a design plan that provided equitable and safe pedestrian and bicycle access as prioritized in the Town Plan & Town Energy Plan, and DOES NOT comply with specific section(s) of the Manchester Land Use and Development Ordinances. Specific section(s) within the Development Review Board decision have been addressed below.

**Section 18 (Findings of Fact) of Development Review Board Decision - New Sidewalk along roadway:**

- A sidewalk along the frontage of the property along Main St. is considered reasonable for a development of this physical size and lot frontage. With active participation between the applicant and the town, sidewalk expansion could have been considered to the existing sidewalk end at Barnumville Rd. and the range of new federal funding sources for this type of safe street infrastructure investment could have been pursued.

**Section 19 (Findings of Fact) of Development Review Board Decision - Crosswalk to existing sidewalk network:**

- A crosswalk could have been pursued by the applicant in consultation with the town and proactive design considerations could have been reviewed regarding the work involved to make this crosswalk safe. The existing street design, and speed limit is considered “dangerous by design”, and is completely within the towns control to address. Crosswalk safety in this section of street could be

improved by adding bumpouts to shorten the crossing distance, building the crosswalk as an elevated table to force vehicles to slow down, adding additional warning signs to force vehicles to slow, adding pedestrian-activated lights or stop lights, and of course reducing the speed limit. All of this is within the town's purview and the applicant could have worked with the town to pursue such safety improvements as part of the application.

- The Federal Highway Administration (FHA) engineering guidance document referenced is significantly outdated and no longer considered industry best practice, as many of the design recommendations are not focused on a "Complete Streets" or "Vision Zero" approach to street design. The town should move to adopt NACTO design standards, which promote a street design to support safe access for all users.

**General Note (Findings of Fact) - Bicycle Access:**

- While bike racks have been included and added to the lower lot, bicycle access was not addressed or prioritized. A project of this magnitude should have actively addressed issues related to separate bicycle traffic access.

The specific areas of non-compliance related to the Manchester Land Use and Development Ordinances have been underlined and notes of non-compliance added below each item for reference:

**1. Chapter III - Section 3.4.4.**

- o "Before granting design plan approval, the Development Review Board or Zoning Administrator, with assistance from the Design Advisory Committee, shall conclude that the proposed development conforms substantially to the relevant goals and policies described in the Manchester Town Plan"

**Non-Compliance:** Application does not meet accessibility or pedestrian and bicycle oriented development requirements as identified within the town goals and priorities within the Manchester Town Plan.

**2. Chapter III - Section 3.4.4.B.(4).(b).**

- o "Separate vehicular, bicycle and pedestrian traffic"

**Non-Compliance:** Application does not fully meet the requirements related to separate pedestrian and bicycle access.

**3. Chapter III - Section 3.8.6.**

- o "All streets shall be built to town standards as described in Chapter 13 of the *Manchester Unified Ordinance*."

**Non-Compliance:** Application does not clearly identify or delineate pedestrian access as defined in Chapter 13, specifically relating to the location, design standards, or materials to follow for sidewalk construction.

**4. Chapter III - Section 4.5.1.(4).**

- “Promote a quality streetscape and pedestrian-friendly environment.”

**Non-Compliance:** Application does not support or propose to create a pedestrian friendly environment, to specifically include access from the street.

**5. Chapter III - Section 5.1.1.(1).**

- “Preserve, maintain, and enhance the architectural integrity, historic character, quality of design and construction, aesthetics of streetscapes and buildings, and walkability that support Manchester’s visitor-based economy and the vitality of the town core.”

**Non-Compliance:** Application does not support or propose to meet walkability requirements.

**6. Chapter III - Section 5.1.5.**

- “... All proposed land development within this overlay district must incorporate frontage and facade elements that will contribute to a pedestrian-oriented streetscape, and must be compatible in form, massing, proportion and rhythm with its historic context.”

**Non-Compliance:** Application does not support or propose to contribute to a pedestrian-oriented streetscape.

**7. Chapter III - Section 9.3.12.**

- “... Consideration shall be given to vehicular and pedestrian movement, parking, design and layout of streets and driveways, intersections, grades and profiles, adjoining land uses, sight distances, trip generation and road capacity, turning movements, peak traffic flows, and surface treatment.”

**Non-Compliance:** Application does not support or propose to address safe pedestrian access and movement.

**8. Chapter III - Section 9.6.2.(1); 9.6.2.(4); 9.6.2.(5); 9.6.2.(7).**

- “Providing safe, convenient pedestrian links within and between buildings and sites, between parking lots and from these lots to the street, adding amenities such as benches, trees, and comfortable lighting;”
- “Improving and expanding the public sidewalk system;”
- “Incorporating multi-modal facilities and amenities;”

- “Linking adjoining parking lots to ensure efficient use of land, lessen the number of vehicle trips or movements into public streets, and maximize sidewalk and greenspace areas along the street.”

**Non-Compliance:** Application does not support or propose to create a pedestrian friendly environment, to specifically include access from the street, did not make a valid attempt to improve or expand the public sidewalk system, sufficiently include multi-modal amenities, nor maximize sidewalks along the street.

**B. Design Standards (Applies to the “Design Standards” of the Development Review Board decision).**

The application and applicant did not provide a facility design to preserve, maintain, or enhance the architectural integrity or historic character as prioritized in the Town Plan and DOES NOT comply with specific section(s) of the Manchester Land Use and Development Ordinances. Specific section(s) within the Development Review Board decision have been addressed below.

**Section 65 (Findings of Fact) - Development Review Board Decision -**

**Architectural design style of adjacent building and underlying zoning district:**

- While the height, physical layout, and design materials were carefully thought through to comply with the site layout and surroundings, the physical appearance of the facility does not preserve, maintain, or enhance the architectural integrity or historic character of the underlying zoning district.
- While I appreciate the architect’s intent regarding the physical appearance, I fear the facility will appear out of place and too divergent from the historically-focused design and aesthetic of Manchester. That is not to say the design must copy or re-create existing facilities within town, but diverging too far from the historic context without some specific reasoning or tangible benefit to justify the stark design contrast can be considered to be non-compliant.
- It is important to note that the existing historic house and barn are being preserved, which is laudable to meet preservation and historic character goals.

The specific area(s) of non-compliance related to the Manchester Land Use and Development Ordinances have been underlined and notes of non-compliance added below each item for reference:

**1. Chapter III - Section 5.1.1.(1).**

- “Preserve, maintain, and enhance the architectural integrity, historic character, quality of design and construction, aesthetics of streetscapes

and buildings, and walkability that support Manchester's visitor-based economy and the vitality of the town core.

**Non-Compliance:** Application does not preserve, maintain, or enhance architectural integrity or historic character of streetscape and underlying zoning district.

Signed: 

Date: 9/7/22