

Gott, Catherine

From: Stephen Whitaker <whitaker.stephen@gmail.com>
Sent: Monday, July 27, 2026 1:43 PM
To: Act250 - Board
Subject: Supplemental Written Comments on Preapplication RPC03-0001 CVRPC

Categories: Catherine

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

To: Vermont Land Use Review Board — Act250.Board@vermont.gov
Cc: Brooke Dingledine

Written Supplemental Comments of Stephen Whitaker

Preapplication RPC03-0001 — Central Vermont Regional Planning Commission

Draft Regional Plan and Regional Future Land Use Map

These comments supplement, and continue the numbering of, my written comments of July 24, 2026, filed under this docket. They do not restate that filing and are confined to interpretive and procedural questions properly before the Board at this stage. Full text follows.

Supplemental Written Comments of Stephen Whitaker

Preapplication RPC03-0001 — Central Vermont Regional Planning Commission

Draft Regional Plan and Regional Future Land Use Map, with Tier 1B Status Requests

To: Vermont Land Use Review Board — Act250.Board@vermont.gov

From: Stephen Whitaker, Montpelier, Vermont

Date: July 27, 2026

Preapplication deemed complete: July 8, 2026 · **Comment period closes:** August 7, 2026

A note on what these comments do and do not attempt. These are supplemental comments. They do not restate, and are not a substitute for, my written comments of July 24, 2026, filed under this docket. They continue the numbering of that filing — the present submission opens at Part 10 — so that the two documents may be read as a single record. Each part below addresses an interpretive or procedural question distinct from anything raised in Parts 1 through 9 of the July 24 filing.

The same conventions apply. Quotations attributed to the Board's meeting of July 23, 2026 are taken from a machine-generated transcript, have not been verified against an official recording, and are attributed to role rather than to named individuals. Where I refer to a specific municipality or designation, I do so to illustrate an interpretive question that arises identically across the region, not to ask the Board to resolve any particular designation on this record. The evidentiary case for the

designation that concerns me belongs to the Commission’s August 31, 2026 hearing and, if necessary, to a § 4348(i) objection — not to this filing.

10. Criterion (i)’s municipal-plan predicate: does the plan before this Board satisfy 24 V.S.A. § 4382(a)(2)(C)?

10.1 The predicate and the requirement it imports

Criterion (i) of § 4348a(a)(12)(B) requires, as a predicate for designation, **“a municipal plan approved in accordance with section 4350 of this title.”** Section 4382(a)(2)(C), added by Act 181, prescribes content that a municipal plan’s land use element must contain:

“Identifies those areas, if any, proposed for designation under chapter 76A of this title and for status under 10 V.S.A. §§ 6033 and 6034, together with, for each area proposed for designation, an explanation of how the designation would further the plan’s goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.”

Section 6033 is Tier 1B; section 6034 is Tier 1A. A municipal plan confirmed under § 4350 is required, by CVRPC’s own confirmation practice, to contain the elements listed in § 4382(a)(1)–(12). Element (2) is the land use element, and subpart (C) is one of its required components — not a Tier 2/3 provision and not a matter of ecosystem-protection designations. It asks whether the plan itself — in advance of any regional map process — identifies the areas the municipality intends to bring forward for Tier 1A or 1B status, and explains how each meets the applicable requirements.

10.2 Why this bears on the document now before the Board, not on any past confirmation vote

I am not asking the Board to sit in review of any regional planning commission’s past decision to confirm a particular municipal plan. That is a different question, addressed to a different forum. The question here is narrower and is squarely about the document the Board is reviewing today: the draft regional plan and Future Land Use Map designate Planned Growth Areas, and criterion (i) conditions each such designation on the existence of a § 4350-approved municipal plan. If the predicate plan for a given area does not contain the § 4382(a)(2)(C) identification and explanation for that area, then the designation now before the Board — not a prior vote, but the map presently under first-instance review — rests on a predicate that has not been shown to be satisfied.

I raise this as a question about the plan before the Board now, not as a request to revisit either municipality’s confirmation. Criterion (i) of § 4348a(a)(12)(B) requires “a municipal plan approved in accordance with § 4350” as the predicate for each area designated. Whether that predicate is satisfied for a given area is a question the Board answers in the course of its own present review — not an inquiry into whether the Commission’s past confirmation vote was correct.

Requested action. State whether the Board’s review of criterion (i) includes confirming that the § 4382(a)(2)(C) identification and explanation exists in the underlying municipal plan for each area proposed as a Planned Growth Area or for Tier 1B eligibility, and, where it does not appear to exist, how the Board proposes to treat that absence.

11. Where Tier eligibility depends on a neighboring municipality's infrastructure, whose capital program carries the disclosure?

CVRPC's own Tier 1B Memorandum to the Land Use Review Board, dated June 25, 2026 (Exhibit 006 of the same submittal package), describes Moretown's North Moretown Tier-eligible area as "is / could be served by the Town of Waterbury's water and wastewater infrastructure" — prospective service from a neighboring municipality's utility district, not existing service and not infrastructure Moretown itself would build or finance. I have not found this identification, or the underlying capital-disclosure question it raises, addressed in Moretown's own town plan.

Criterion (vii)'s planned-infrastructure branch, and the § 4430/§ 4443/§ 4382(a)(4) chain it references, contemplate disclosure of cost, financing method, and operating-cost effect for planned infrastructure. Where the infrastructure in question would be built and billed by a neighboring municipality rather than the one seeking the designation, it is not evident which municipality's capital program is understood to carry that disclosure. I do not represent that I have reviewed Waterbury's plan to determine whether it addresses this extension; I raise the structural question rather than a finding about Waterbury's own record.

Requested action. State how cross-boundary utility dependency is to be documented for capital-disclosure purposes where one municipality's Tier eligibility rests on infrastructure understood to be built, owned, or financed by a neighboring municipality.

12. Criterion (vi) was amended effective July 1, 2026 — does the current record reflect it?

Act 152 § 13, effective July 1, 2026, rewrote criterion (vi). The prior text asked only whether an area "provides for housing that meets the needs of a diversity of social and income groups in the community." The current text asks whether the area "provides for opportunity for development, infill development, and redevelopment that is needed to meet the regional and municipal housing targets that meet the present and future needs of a diversity of social and income groups in the community" — adding a targets-based element to the diversity element already there, not replacing it.

This amendment took effect before this preapplication's July 8, 2026 completeness date, but I raise it because the distinction between the two versions is easy to miss — the diversity language is unchanged and reads naturally as complete on its own — and because the same question will arise for every region still to file. I have not undertaken a review of every region's materials against the current text and do not represent that any region's materials are presently inconsistent with it; I ask only that the Board confirm the applicable text going forward.

Requested action. Confirm, generally and for application to all regional plans still to be filed, that criterion (vi) is to be applied in its current form — including the regional and municipal housing-targets element added by Act 152 § 13 — and not in its pre-July 1, 2026 form.

13. Map governance, across the regional-to-statewide transition, as a direct illustration of the participation duty

My July 24 comments at Part 2 raised whether the Commission's future land use map is subject to a change log recording edits to geometry and attribute data, with date, editor, and authority. That question becomes more consequential, not less, as individual regional plans are assembled into a statewide tiled Future Land Use Map. Two related questions follow. First, at the statewide level as at the regional level, does the map's archive record who made each change and under what authority. Second, once a region's tile is submitted, does editorial control pass exclusively to the Board, or does the originating regional planning commission retain concurrent access to the same tile.

How these maps are managed at the regional and state level is itself a clear example of what "informed and enabled" public participation requires under 3 V.S.A. § 6002 and 24 V.S.A. § 4348(a) — and a case where that obligation is genuinely achievable, not merely aspirational. The public's ability to track how and when a parcel's designation changed, and to know which body is accountable for that change at any given moment, is precisely the kind of transparency § 6002 calls for. Explaining how the Board's own system already works — or committing to how it will — would give every region a concrete, replicable model of what meaningful participation looks like in practice.

Requested action. State whether the statewide tiled map records attribute- and geometry-level change history with editor and authority, and whether editorial control over a submitted tile passes exclusively to the Board or remains concurrently accessible to the originating regional planning commission; and consider explaining this governance structure to the public as part of the Board's ongoing education efforts under § 4348(a).

14. The per-parcel attribute layer already requested (July 24, Part 5) should distinguish capacity from presence for criterion (ii)

My July 24 comments at Part 5 asked that the future land use digital data layer carry an attribute for each § 4348a(a)(12)(B) criterion, valued met, not met, or not evaluated. As to criterion (ii), a binary "served" attribute does not capture the distinction that matters: infrastructure being present is not the same fact as infrastructure having capacity for the scale of development a Planned Growth Area designation contemplates. A parcel already served at a capacity adequate to a modest existing use can be marked "met" under a presence-only reading, while the capacity increase the designation anticipates — a larger main, a new pump or lift station, expanded treatment capacity — remains undisclosed, unbudgeted, and unbuilt.

This matters for reasons beyond any single designation. Where expanding capacity would cost in the millions or tens of millions of dollars, and no capital program identifies that cost or its funding source, a designation resting on "planned" capacity can effectively sequence the housing it purports to enable years or decades into the future — while still counting, today, as served land removed from Act 250 review. The gap between designation and deliverable housing is invisible on a map that records presence only.

Requested action. Extend the per-parcel attribute request in Part 5 so that, for criterion (ii), the attribute set distinguishes existing capacity sufficient for current use from capacity sufficient for the development scale the designation contemplates, and, where the latter requires infrastructure expansion, identifies whether that expansion appears in an adopted capital program with an estimated cost and funding source.

Summary of requested actions

-
-
- State whether the Board’s review of criterion (i) includes confirming the § 4382(a)(2)(C) municipal-plan identification exists for each area proposed as a Planned Growth Area or for Tier 1B eligibility.
-
-
-
- State how cross-boundary utility dependency between municipalities is to be documented for capital-disclosure purposes.
-
-
-
- Confirm that criterion (vi) is to be applied in its current, post–July 1, 2026 form, for all regions still to file.
-
-
-
- State whether the statewide tiled map preserves change-attribution history and clarify which body holds editorial control over a submitted tile; consider explaining this to the public as part of the Board’s education efforts.
-
-
-
- Extend the per-parcel attribute request in Part 5 so that, for criterion (ii), the attribute set distinguishes existing capacity from capacity sufficient for the designation's contemplated development scale, and identifies whether required infrastructure expansion appears in an adopted capital program with an estimated cost and funding source.
-

A note on what follows. As stated in my July 24 comments, I intend to provide written and oral comments at the Commission’s public hearing on August 31, 2026, and, if the designations that concern me are carried into the adopted plan, to file an objection under § 4348(i) within fifteen days of adoption. The matters raised here, like those raised on July 24, are confined to questions properly before the Board at this stage.

Thank you again for the opportunity to comment.

Respectfully submitted,

Stephen Whitaker

Montpelier, Vermont