

Fifth Supplemental Written Comments of Stephen Whitaker

Preapplication RPC03-0001 — Central Vermont Regional
Planning Commission (CVRPC)

Draft Regional Plan and Regional Future Land Use Map

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

From: Stephen Whitaker, Montpelier, Vermont

Date: August 6, 2026

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

Continues Parts 1–34 of my July 24, July 27, July 31, August 4, and August 5, 2026 comments under this docket, opening at Part 35.

35. Requiring genuine per-parcel criteria documentation will necessarily narrow this cycle's Planned Growth Area ambitions, and that is a feature, not a cost, of taking Parts 21-22 seriously

If the Board adopts the per-parcel documentation standard requested in Parts 21-22 — showing, for each parcel proposed for Planned Growth Area status, which statutory criteria are met, which are not met, and which have not yet been reviewed — that standard cannot be satisfied on the current schedule for every parcel currently proposed. CVRPC's own August 4, 2026 staff memo already documents that classification methodology remains unsettled even among Board members. Genuine documentation, done honestly rather than as a formality, takes time that this cycle's October 1 target does not appear to allow across the full scope of area currently contemplated.

I raise this because I believe that is the correct outcome, not an unintended side effect to be minimized. A regional plan adopted this year does not need to resolve every candidate Planned Growth Area this year. Parcels that cannot yet be documented to the standard the statute contemplates are better identified now as candidates for a future plan amendment — after flood resilience mapping, combined sewer overflow burden, and the infrastructure-capacity questions raised elsewhere in this filing have actually been worked through — than designated now on an incomplete record. I ask the Board to treat a narrower, better-documented set of Planned Growth Areas this cycle, with an identified path for expansion next year, as a legitimate and preferable outcome to approving the full scope now on documentation that Parts 21-22 show does not yet exist.

36. Criterion (ii) should require demonstrated capacity for the development contemplated, not merely the presence of water and wastewater service

24 V.S.A. § 4348a(a)(12)(B)(ii) asks whether an area is served by existing water and wastewater service. As written, and as CVRPC's methodology appears to apply it, this is treated as a binary: a parcel with any water and sewer connection is scored as served, regardless of the scale of development the Planned Growth Area designation contemplates relative to what that connection can actually support. That reading rests on an assumption the statute does not require: that existing service implies existing capacity. The two are not the same fact. A connection sized to serve a golf course clubhouse and restaurant is a real, existing service — and is not evidence of capacity to serve the scale of housing development a Planned Growth Area designation is understood to enable. Where expanding that capacity would require infrastructure investment in the tens of millions of dollars, with no capital program under § 4430 identifying it, “served” and “capable of serving the contemplated development” are materially different findings, and only the first is currently being demonstrated.

I ask the Board to require, as part of the documentation requested in Parts 21-22, that a parcel be shown not only to have existing water and wastewater service, but to have or credibly plan for capacity adequate to the scale of development the designation contemplates, before that parcel is credited with satisfying criterion (ii).

37. A Planned Growth Area designation for Country Club Road would set up a Tier 1A application this parcel's complexity cannot responsibly be reviewed under, and that risk counsels against the designation now

I filed a Request for Jurisdictional Opinion under 10 V.S.A. § 6007(c) with District 5 Coordinator Susan Baird on January 28, 2026, concerning Act 250 applicability to the proposed redevelopment at 203 Country Club Road, and filed a supplement on March 17, 2026 detailing the segmented roadway work affecting Route 2. That request remains unanswered as of this filing — over six months later, despite repeated status inquiries and a formal escalation to the Board's General Counsel. Separately, on July 28, 2026, I raised with the Agency of Transportation a specific question about its concurrent jurisdiction under 19 V.S.A. § 1101 over roadway work near this parcel. I have not yet received a substantive response to either.

I raise this not for the engineering specifics, which are not properly before this Board, but for what it illustrates about the consequence of the designation itself. A Planned Growth Area designation does not grant Tier 1A status — it makes the parcel eligible to apply for it, under a separate application subject to § 6034's own, considerably compressed statutory review period. A parcel with this many live, unresolved threads — a pending Act 250 jurisdictional opinion open since January, an unaddressed question of concurrent state highway jurisdiction, an unremediated brownfield, and the infrastructure-capacity gaps raised elsewhere in this filing — is not a parcel this Board can responsibly evaluate within that compressed window. I do not ask the Board to resolve any of these threads itself. I ask the Board to recognize that designating this parcel as a Planned Growth Area now would set up a Tier 1A review this Board would later be statutorily rushed to complete, on a record this complicated, and that the more prudent course is to leave Country Club Road out of Planned Growth Area status in this cycle, with the door open to reconsider once these threads are actually resolved.

38. Planned Growth Area expansion region-wide should not outpace separation of combined sewer overflow systems from sanitary sewer capacity

As raised in my July 31, 2026 filing, portions of the region's wastewater infrastructure — including Montpelier's — operate as combined sewer overflow systems, in which stormwater and sanitary sewage share capacity and the system periodically discharges untreated combined flow to receiving waters during heavy rain events. I do not have documentation that Country Club Road's own wastewater service is specifically tied to a CSO-affected line, and I am not raising this as a parcel-specific claim about that site. The point I ask the Board to weigh is a planning principle that applies across every Planned Growth Area proposed in this draft Plan, not any single one: adding significant new sanitary sewer demand anywhere in the region onto infrastructure that still periodically discharges raw sewage should not outpace separating stormwater capacity from sanitary sewer capacity.

The people who bear the consequences of that contamination — swimmers, boaters, anglers, and residents without the means to travel to an alternate swimming location — are exactly the population the Plan's own environmental justice goals, cited at 24 V.S.A. § 4302(c) Goal 15 and 3 V.S.A. § 6003 in my July 31, 2026 filing, are meant to protect. I ask the Board to require CVRPC to address, region-wide and not parcel by parcel, whether its pace of Planned Growth Area designation accounts for combined sewer overflow capacity constraints before adding sanitary sewer demand across the region.

Requested actions

- Require, before confirming any Planned Growth Area designation, that the per-parcel documentation described in Parts 21-22 — which criteria are met, which are not met, and which have not been reviewed — actually exists for that parcel, and exclude any parcel lacking it from this cycle's designations.
- Require, for any parcel relying on 24 V.S.A. § 4348a(a)(12)(B)(ii)'s water/wastewater criterion, a demonstration of capacity adequate to the scale of development contemplated, not merely the presence of existing service.

- Require CVRPC to address, region-wide, whether the pace of Planned Growth Area designation accounts for combined sewer overflow capacity constraints before adding sanitary sewer demand.
- Decline to designate Country Club Road as a Planned Growth Area in this cycle, given the unresolved Act 250 jurisdictional opinion pending since January 2026, the unaddressed question of concurrent state highway jurisdiction, and the compressed Tier 1A review window a designation would set in motion.

Respectfully submitted,

Stephen Whitaker

Montpelier, Vermont