

An Incremental Path to Decision-Ready Designation — Proposed Guidance for the Board's Application Guidelines, Timed to the Current Revision Cycle

Date: August 20, 2026

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

From: Stephen Whitaker, Montpelier, Vermont, on behalf of himself and ASAP4CV (Accountable, Sustainable, Affordable Planning 4 Central Vermont)

Re: Regional Planning Commission Application Guidelines, currently in revision — a proposed framework for the incremental designation problem common to all eleven regions

Why now

The Board is actively revising the Regional Planning Commission Application Guidelines, with a draft before the Board as recently as its August 18, 2026 meeting. This letter is timed to that window deliberately. What follows is not a complaint about any single region's draft plan. It is a proposed tool the Board could adopt into the Guidelines themselves, before this revision cycle closes, that would help every regional planning commission navigate the same problem Central Vermont's docket happens to illustrate clearly: how to avoid the December 31, 2026 lapse of existing designations without rewarding designation that has outrun its own documentation.

One brief, generalized illustration of why this matters now rather than after the fact: on August 6, 2026, one day before the comment period on this region's draft plan closed, a municipality submitted a memorandum requesting roughly a dozen distinct additions to the future land use map, each justified in a sentence or two, with no accompanying data showing where water and sewer service actually ends, where an extension would require a pump rather than gravity feed, or where sidewalks and bike lanes genuinely exist versus are assumed from a traffic-count exemption. This is offered as an example of a pattern likely to recur across every region under year-end deadline pressure, not as an argument about this docket specifically. A late, high-volume batch of requests without that underlying data is not a failure unique to one municipality's planning staff; it is what happens, predictably, when Guidelines do not yet specify what baseline information a designation request needs to carry with it.

The problem, stated once

Two things are true at the same time. First, the Legislature built a real cliff: existing neighborhood development area and growth center designations expire December 31, 2026, absent Board approval of a regional plan and future land use map. Second, meeting that deadline by designating broadly now, ahead of the infrastructure planning and capital budgeting that would actually justify those designations, creates exactly the problem this Board's own guidance on presence-versus-capacity, sidewalk exemptions, and boundary-cleanup rules already shows it is alert to. A region under deadline pressure has every incentive to resolve that tension by designating first and hoping the documentation catches up. The Guidelines are where the Board can remove that incentive, for all eleven regions at once, rather than adjudicating it region by region after the fact.

What incremental designation actually builds

A default of minimal, well-documented designation — with a defined, staged path for a region or municipality to expand it as real capacity is demonstrated — is not merely a safer legal posture. It does three separate kinds of work, for three different audiences, at the same time:

It builds municipal capital-budgeting discipline. Most municipalities in this state do not have an adopted § 4430 capital improvement program that actually reaches the parcels a Planned Growth Area designation contemplates. Treating that as disqualifying, full stop, helps no one — it simply freezes growth. Treating it as a staged requirement, with a defined on-ramp, gives a municipality a concrete, achievable sequence: document current infrastructure capacity now; adopt a capital program addressing the gap within a defined number of years; and expand designated acreage as each stage is actually completed, through the § 4348(j) and § 4348(n) mechanisms the statute already provides for exactly this purpose. This is not a new burden invented for this letter — it is the discipline § 4430 already asks of municipalities, sequenced so that a region under deadline pressure can meet the December 31 cliff honestly instead of by assumption.

It builds planning discipline among RPC staff and consultant planners. The methodology gaps already on this Board's record — capacity credited from presence alone, a sidewalk exemption tested against pre-designation traffic counts, a boundary-cleanup rule used as an independent basis for designation — are not unique to one region's staff. They are what any planning process

produces under enough time pressure and enough ambiguity in the guidance it is working from. Guidelines that specify what "capacity," "served," and "generally within walking distance" actually require, and that make minimal designation the default until those specifics are documented, give every region's planners a clear, defensible standard to work to, rather than a deadline to work against.

It builds the information platform meaningful public participation actually requires. A resident cannot evaluate whether a Planned Growth Area designation is justified from a color on a map. What they need — and what the Board's Guidelines could specify as a baseline expectation for any region's future land use map — is a data layer showing, for each parcel or area under consideration:

- Existing water and sewer infrastructure, color-coded by whether it has adequate capacity, would require upgrade at substantial cost, or would require a pump station rather than gravity feed to extend
- Fire flow adequacy and hydrant coverage where relevant to a proposed extension
- For sewer service routed through a combined system: whether the receiving system has adequate separated capacity, or whether the area should be treated as restricted until stormwater separation occurs — the same readiness logic already proposed for capacity generally, applied to combined sewer overflow risk specifically
- Sidewalks, curbs, and bike lanes as an actual mapped layer, not inferred from a traffic-count exemption, evaluated against the "individuals of all ages and abilities" standard 19 V.S.A. chapter 24 already sets for complete streets
- Real walking-route distance to a downtown, village, or growth center, not straight-line distance
- Flood hazard and river corridor status, already available as state data and not requiring new study
- The municipal plan's own future land use designation for the same area, displayed alongside the regional designation so conflicts are visible rather than requiring two separate documents to discover

- Funding status: whether infrastructure adequate to the designation is covered by an adopted capital program with released funds, is planned but unfunded, or has no plan at all
- Brownfield or contamination delineation status, where relevant, distinguishing an approved Corrective Action Plan from a site where contamination is merely suspected or undelineated
- Natural and habitat features — streams, wetlands, tree cover, wildlife corridors — so a designation's effect on the landscape residents actually value is visible, not only its development suitability
- Where terrain is steep enough to bear on storm-driven risk independent of a fixed buffer distance, the topographic and hydrologic modeling to show it

None of this is a new technical capability. Every region's GIS platform already handles data at this level of complexity for other purposes. What is missing is a Guidelines-level expectation that this baseline exists before a designation is made, not a technical barrier to providing it.

A concrete mechanism, not just a principle

The Board's own § 6033(a) authority to "produce guidelines for regional planning commissions" is the right vehicle for this, and the statute's own on-ramp mechanisms already fit the sequencing being proposed:

1. **Now, through December 31, 2026:** regions designate minimally — only where each § 4348a(a)(12)(B) criterion is affirmatively and individually documented, using the data layers described above. This meets the deadline honestly, avoiding the lapse of existing designations without requiring premature broad designation to do it.
2. **A defined subsequent period** (the Board is better positioned than any one region to set the right number of years): municipalities complete the § 4430 capital documentation the initial designation lacked, for infrastructure already inside their existing designated areas, before seeking new designation elsewhere. A municipality with unfinished capital planning for land it already has is not well positioned to be credited with equivalent planning for land it is newly requesting.
3. **Ongoing:** designated acreage expands through § 4348(j) minor amendments and § 4348(n) changed-conditions review as each stage of

documentation is actually completed, rather than through a single, one-time plan adoption that has to get everything right at once under deadline pressure.

This is not a novel legal theory. It is the same asymmetry already implicit in the statute's own design: under-designation is curable through § 4348(j) and § 4348(n) at comparatively little cost; over-designation is not curable in the same way once Tier 1A eligibility attaches. Guidelines that make the curable path the default, with a real, staged mechanism for regions and municipalities to build toward full documentation, give every region a way to meet the December 31 deadline without treating documentation as optional.

Requested actions

- Adopt, in the current revision of the Application Guidelines, a stated default that Planned Growth Area and comparable designations be approved only where each § 4348a(a)(12)(B) criterion is affirmatively and individually documented, with acreage short of that standard directed to the § 4348(j) and § 4348(n) processes as documentation is completed.
- Specify, as a baseline expectation for any region's future land use map, the parcel-level data layers described above — water/sewer capacity and extension feasibility, complete streets infrastructure against the all-ages-and-abilities standard, funding status, brownfield delineation status, and combined sewer overflow risk where relevant — so that both Board review and public participation can proceed from the same checkable record.
- Define a specific, staged timeline within which a municipality's existing designated areas must reach § 4430-compliant capital documentation before new designation requests from that municipality are credited with equivalent planning.
- Recognize combined sewer overflow risk as a distinct readiness criterion, treating areas served by a combined system as capacity-restricted until stormwater separation is complete and budgeted, rather than folding that risk into ordinary capacity analysis.
- Consider this framework for all eleven regions now, while the Application Guidelines are still in active revision, rather than adjudicating the same gaps region by region as each docket reaches the Board individually.

Respectfully submitted,

Stephen Whitaker

Montpelier, Vermont

On behalf of himself and ASAP4CV