VERMONT
LAND USE REVIEW BOARD
Application #:
RPC10-0001
Exhibit #: 111
Date Received: 9-10-2026

From: Michelle Massa
To: Hurley, Janet; Hadd, Sarah; Dingledine, Brooke; Sultan, Kirsten; Weinhagen, Alex
Cc: Diane Eramo; Tony OMeara; wbemmons3; Act250 - Board
Subject: Follow-Up on Preapplication Review — TRORC"s August 31 Response to LURB"s Findings
Date: Thursday, September 10, 2026 6:37:40 PM

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Dear Ms. Hurley and members of the LURB,

We're writing as TRORC board commissioners — I'm Vershire's representative, joined by Diane Eramo (Granville) and Tony O'Meara (Newbury).

By way of reminder, I shared my own assessment of LURB's preapplication review with you back in July, and I appreciated your time reviewing it for me. Just this afternoon I was finally able to share that assessment with all my fellow TRORC commissioners. I only recently received contact information for the full board after a request that went unanswered for more than two weeks, but it has been shared, along with a 15-page 9/9 deeper analysis of TRORC's response to all public comments and your findings, sent to all commissioners and stakeholders ahead of the next TRORC board meeting on September 30.

In preparation for that meeting, we wanted to highlight some specific items from TRORC's response and get your read on it. We could also convene a meeting with our Board via zoom if that is more beneficial as these topics can be convoluted for us not in this business of planning.

On August 31, 2026 at 7:20 PM, TRORC staff released three documents responding to your preapplication review comments and to 180+ public comments on the draft 2026 Regional Plan:

- TRORC Responsiveness Document (8/31/26) (https://www.trorc.org/wp-content/uploads/2026/08/TRORC_Responsiveness_Document_8312026.pdf)
- Table of Suggested Policy Changes to First Draft (8/31/26) (https://www.trorc.org/wp-content/uploads/2026/08/TABLE-OF-SUGGESTED-POLICY-CHANGES-TO-FIRST-DRAFT-FINAL.pdf)
- 2026 Plan Goals, Policies, and Recommendations with Staff Revisions (8/31/26) (https://www.trorc.org/wp-content/uploads/2026/08/TRORC-2026-Plan-GPR-with-Staff-Revisions.pdf)

In the Responsiveness Document, we found several places where staff questioned whether LURB had the statutory authority to make them, rather than addressing your findings on the merits. Four examples to cite, in TRORC's own words:

1. On your request that TRORC demonstrate the region's communities support its mandatory land use policies, not merely that the Board adopted them:

> *"The standard for regional support of Regional Plans is their adoption by the respective RPC Board. We can find no separate statutory process based on a Plan's content... Certainly, it is not our place to second guess the Legislature on this." (p. 279)*

2. On your request that TRORC show mandatory rural-area policies won't create disproportionate burdens on lower-income, senior, and rural communities:

> *"TRORC does not believe that there is any constitutional infringement due to the draft Plan content. If the LURB has received a legal opinion that there is a constitutional issue it should share that." (p. 279)*

3. On your finding that several "substantial regional impact" triggers appear to be municipal-level rather than regional-level decisions:

> *"We do not see where that definition is within the purview of the LURB to judge, rather only that we have a definition." (p. 280)*

4. On your request that TRORC justify or make nonmandatory a Rural Agriculture & Forestry policy:

> *"TRORC does not think that the Legislature enabled the LURB to approve or disapprove of policies, except to the extent that a policy conflicts with that future land use area's enabling statute." (p. 291)*

Our Questions for LURB:

On the first item, we'd like to make our own view known directly, not just ask a question: **we don't think Board adoption at a 60% threshold and demonstrated public/municipal support for a specific mandatory policy are the same standard.** A plan can clear 60% adoption for several reasons — political pressure not to be the town that sinks a regional plan, or towns accepting provisions they oppose as part of a larger package — that have nothing to do with support for any one contested policy. TRORC's response treats the two as interchangeable, and we don't think they are.

On the other three items, we're genuinely asking for your guidance rather than arguing a position: **does LURB concede to TRORC's characterization of the limits of your statutory authority here, particularly on reviewing individual mandatory policies and on the "substantial regional impact" definition?** We want to be careful not to overstate our own understanding of a 210-page plan and a 294-page response document against your own expertise in what your office is and isn't empowered to require. If there is a question, perhaps a legal opinion could be sought by your team, if necessary?

We'd appreciate your perspective *before* the September 30 board meeting, and we recognize this may be better addressed through LURB's formal review process than informally — or even joining a meeting with our commissioners to delve into these topics – please let us know the right path and how to proceed.

Separately, and not needing a response from your office: we heard back from DHCD on the tax-credit and funding-timeline questions we submitted September 8. DHCD confirmed that legacy-designated-area benefits expire if the regional plan isn't approved by December 31, 2026 (24 V.S.A. §5803), though nothing already awarded is clawed back — only future eligibility is affected — and that the next downtown/village tax-credit application deadline, requiring your Board's approval or confirmation of the plan beforehand, is July 1, 2027, not this December. Therefore, there is breathing room and rushing is not required here.

We're still awaiting a written response from VLCT's legal department on several other questions we submitted on 9/8 — the legitimacy of the OML violation curing process (filed August 10 by Neil Ryan, link here) and the proper procedure for filing an ethics complaint against an RPC executive director. We mention this only because it's part of the same broader effort to get clarity in writing before commissioners are asked to act on the next draft.

Thank you again for the thorough preapplication review you already provided, and for your time on this.

Best,
Michelle Massa, Chair, Vershire Planning Commission; Vershire's TRORC Board Representative
Diane Eramo, Granville's TRORC Commissioner
Tony O'Meara, Newbury's TRORC Commissioner