



BOARD OF COMMISSIONERS

SPECIAL MEETING

September 18, 2025 - 6:30 pm

Physical Location - 29 Main Street, Suite 4, Montpelier VT

Hybrid Meeting with Remote Participation via Zoom¹

<https://us02web.zoom.us/j/81136818419?pwd=dDFDbDhrTm56TUNQUlp3WEorYzRZZz09>

One tap mobile: +19294362866,,81136818419#,,,,*722490# US (New York)

Dial in via phone: 1-929-436-2866 • Meeting ID: 811 3681 8419 • Passcode: 722490

Or find your local number: <https://us02web.zoom.us/j/81136818419?pwd=dDFDbDhrTm56TUNQUlp3WEorYzRZZz09>

Download the app at least 5 minutes before the meeting starts: <https://zoom.us/download>

Page **AGENDA**

6:30² Introductions/Roll Call

Confirmation of Meeting Recording

Adjustments to the Agenda

Public Comments

6:35 Executive Session – 1 V.S.A. § 313(a)(1) Pending or Probable Civil Litigation
(Action - enclosed)

7:20 Pending or Probable Civil Litigation (Action - enclosed)

7:30 Adjourn

Next Regular Meeting: *October 14, 2025*

¹ Persons with disabilities who require assistance or alternate arrangements to participate in are encouraged us at 802-229-1015 or cvrpc@cvregion.com at least 3 business days prior to the meeting for which services are requested.

² Times are approximate unless otherwise advertised.



MEMO

Date: September 11, 2025
 To: Board of Commissioners
 From: Christian Meyer, Executive Director
 Re: CVRPC discussion and likely executive session to discuss potential or probable civil litigation related to CVRPC approval of the Montpelier City Plan 2025.

✉ ACTION REQUESTED: Discussion – Executive Session

The Board of Commissioners will be discussing pending litigation as outlined below and is recommended to enter into executive session inviting the executive director, Christian Meyer, and Attorney Suzanne Armor of Woolmington, Campbell, Bent & Stasny.

- August 21, 2025 – CVRPC Board of Commissioners moved to approve the Montpelier City Plan 2025
- August 27, 2025 – CVRPC & ACCD received petitions under 24 V.S.A. § 4476 for formal review of regional planning commission decisions. (Attachment 1)
- September 8, 2025 – General Counsel for ACCD's Department of Housing and Community Development issued an opinion that ACCD is not statutorily empowered to take further action. (Attachment 2)
- September 8, 2025 – Stephen Whitaker of Montpelier filed a petition with the Vermont Superior Court, Washington Unit, wherein CVRPC is named as a respondent (Attachment 3)

Executive Session

In order to enter executive session, the Board of Directors must make two motions:

- (1) move that per 1 V.S.A. § 313(a)(1) premature general public knowledge of pending or probable civil litigation and of confidential attorney-client communications made for the purpose of providing professional legal services to CVRPC would clearly place the public body at a substantial disadvantage.

- (2) move to enter executive session to discuss potential or pending litigation and attorney-client communication related thereto, included in the session will be executive director, Christian Meyer, and Attorney Suzanne Armor. Mr. Meyer's and Ms. Armor's attendance in executive session is appropriate because they have information that is needed by the Board to consider the matter.

**Petition for Regional Review Panel under 24 V.S.A. § 4476 — Montpelier
City Plan 2025**

To: Central Vermont Regional Planning Commission
29 Main Street, Suite 4
Montpelier, VT 05602

CC: Lindsay Kurrle, Secretary
Agency of Commerce and Community Development

Date: August 27, 2025

Re: Petition under 24 V.S.A. § 4476; Request for Regional Review Panel

I am a registered voter in the City of Montpelier. This petition is submitted pursuant to 24 V.S.A. § 4476 to request that the Central Vermont Regional Planning Commission (CVRPC) forward this petition to initiate review by a Regional Review Panel of the Montpelier City Plan 2025. All other signatories to this petition are either registered voters or property owners in Montpelier or in municipalities adjoining Montpelier.

Under § 4476, the Regional Review Panel conducts a de novo review — meaning a fresh, independent review from the beginning — to determine whether the municipal plan:

1. Is consistent with the statewide planning goals in 24 V.S.A. § 4302;
2. Is compatible with the regional plan; and
3. Is compatible with the duly adopted plans of adjoining municipalities.

The panel's review is not limited to the record created before the CVRPC; it may consider new evidence and testimony. Petitioners request that the panel be comprised of qualified individuals from outside the Central Vermont region to ensure the review is impartial, objective, and free from local political pressures.

Given the repeal of the Council of Regional Commissions, Petitioners presume that the Agency of Commerce and Community Development will step in to facilitate the convening of the Regional Review Panel so that the review can proceed in accordance with the statute.

Grounds for Petition

1) Failure to apply the statutory four-part compatibility test (§ 4303)

The Montpelier City Plan 2025 contains provisions that are incompatible with the regional plan and/or with the approved plans of adjoining municipalities. Under 24 V.S.A. § 4303, if a municipal plan, as implemented, will significantly reduce the desired effect of the implementation of another plan, it may still be considered compatible only if it contains a documented, substantive justification analysis that addresses each of the following four required elements. This analysis must show that the municipality has thoroughly evaluated the conflict, that the incompatible portion is truly essential, that no reasonable alternative exists, and that all feasible mitigation or minimization measures have been incorporated:

- (A) A statement that identifies the ways that it will significantly reduce the desired effect of the other plan.
- (B) An explanation of why any incompatible portion of the plan in question is essential to the desired effect of the plan as a whole.
- (C) An explanation of why, with respect to any incompatible portion of the plan in question, there is no reasonable alternative way to achieve the desired effect of the plan.
- (D) An explanation of how any incompatible portion of the plan in question has been structured to mitigate its detrimental effects on the implementation of the other plan.

The Montpelier City Plan 2025 contains provisions that are incompatible with the regional plan and/or with the approved plans of adjoining municipalities, yet the plan does not provide these four required analyses. CVRPC's approval is procedurally defective for failure to apply and document this statutory compatibility test.

Incompatibilities of primary concern include:

- Traffic impacts from the proposed Country Club Road development on key segments of the regional transportation system:
 - Intersection of US Route 2 and Country Club Road – projected increases in turning movements will reduce safety and efficiency.
 - Intersection of US Route 2 and Gallison Hill Road – current peak-hour queuing and limited sight distances will be exacerbated by additional traffic.
 - US Route 2/US Route 302 Roundabout – additional trip generation will increase congestion and conflict points at this major regional junction.
- Loss of prime agricultural soils: The Country Club Road property contains widespread prime agricultural soils as identified by NRCS mapping. The regional plan prioritizes preservation of such soils for agricultural purposes; conversion to developed use represents a permanent loss.

Petitioners are not prohibiting housing construction but seek the required § 4303 four-part analysis to ensure impacts are fully assessed, and reasonable avoidance, minimization, or mitigation measures are considered.

- Conflict with the regional plan's current Rural designation: The current regional plan designates the Country Club Road property as 'Rural,' and this designation will remain in effect until a new regional plan and map are adopted next year. Siting dense urban housing on prime agricultural soils in a Rural-designated area is inconsistent with the regional plan's land use framework and should have triggered the § 4303 compatibility analysis.

2) Conflict-of-interest/recusal concerns affecting the decisive vote

The City's appointed CVRPC Commissioner, who is also the City's professional planning staff responsible for authoring and defending the plan, cast the decisive 12th 'Yes' vote on all three motions approving the plan at CVRPC on August 21, 2025. CVRPC's Code of Conduct and Conflict of Interest Policy (adopted 12/11/2018) requires avoiding both actual and apparent conflicts and contemplates recusal when a reasonable person would think judgment is compromised. Vermont's State Code of Ethics (3 V.S.A. § 1203) similarly requires public servants to avoid conflicts and recuse when confronted with one.

Where an employee's continued employment could reasonably be perceived as contingent on plan approval, recusal is the appropriate safeguard. CVRPC's approval was tainted by this conflict and requires independent review.

3) Public participation and access deficiencies

24 V.S.A. § 4384 requires that municipal plans be prepared with broad public participation. Petitioners assert that effective participation was impeded by the plan's web-only presentation and lack of accessibility features for persons with disabilities, as well as the absence of reasonably equivalent offline access for residents without broadband. The record does not demonstrate compliance with these obligations.

Requested Relief

- Accept jurisdiction of this § 4476 petition and constitute a Regional Review Panel without delay; in the alternative, preserve rights to seek review in the Environmental Division if a panel cannot be timely appointed.
- Advance this petition to the appointing authority so that a Regional Review Panel may be constituted to conduct the statutory de novo review; preserve rights to seek review in the Environmental Division if a panel cannot be timely appointed.

- Require the City to amend the Montpelier City Plan 2025 to include the four analyses required by § 4303 for any incompatible portions of the plan.
- Ensure the public participation record demonstrates accessible, effective opportunities for people with disabilities and residents lacking internet access.

Petitioner:



Sources (for reference)

- 24 V.S.A. § 4303 (definition of 'compatible with').
- 24 V.S.A. § 4350(b) (RPC approval criteria).
- 24 V.S.A. § 4384 (public participation).
- CVRPC Code of Conduct and Conflict of Interest Policy (Adopted 12/11/2018).
- 3 V.S.A. § 1203 (State Code of Ethics — conflicts of interest; recusal).
 - (A) A statement that identifies the ways that it will significantly reduce the desired effect of the other plan.
 - (B) An explanation of why any incompatible portion of the plan in question is essential to the desired effect of the plan as a whole.
 - (C) An explanation of why, with respect to any incompatible portion of the plan in question, there is no reasonable alternative way to achieve the desired effect of the plan.
 - (D) An explanation of how any incompatible portion of the plan in question has been structured to mitigate its detrimental effects on the implementation of the other plan.

PETITION FOR REGIONAL REVIEW OF MONTPELIER CITY PLAN 2025

Pursuant to 24 V.S.A. § 4476, the undersigned voters or property owners within the City of Montpelier or an adjoining affected municipality hereby petition the Central Vermont Regional Planning Commission to request a formal review of the Montpelier City Plan 2025 by the Regional Review Panel.

WHEREAS, the Montpelier City Plan 2025, as approved by the Central Vermont Regional Planning Commission, contains the following significant incompatibilities with statutory requirements under 24 V.S.A. Chapter 117:

1. Rural Designation Conflict — The Country Club Road (CCR) site is designated as Rural in the Regional Plan. The Montpelier City Plan proposes dense housing in this location without conducting the required four-part compatibility analysis to demonstrate conformance with the Regional Plan's land use policies.
2. Traffic Impacts — The Montpelier City plan fails to adequately assess the significant regional traffic impacts of the proposed development on the CCR site and the nearby Route 2 intersection. No comprehensive analysis has been presented to address safety, congestion, and signalization constraints in accordance with regional transportation planning standards.
3. Prime Agricultural Soils — The CCR site contains areas of Prime Agricultural Soils. The Montpelier City Plan does not include the required analysis or mitigation measures to preserve or compensate for the loss of these soils, as called for by both state statute and the Regional Plan.

THEREFORE, the undersigned respectfully request that the Regional Review Panel examine the Montpelier City Plan 2025 for consistency with the statutory goals of 24 V.S.A. § 4302, its compatibility with the Central Vermont Regional Plan, and its compatibility with the plans of adjoining municipalities.

Printed Name | Signature | Address | Municipality

1 Tave Pershing Johnson
 George Johnson
 East Montpelier, VT

2 George Olson George Olson
 25 Hubbard St Montpelier

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2. Traffic Impacts — The plan fails to adequately assess the significant regional traffic impacts of the proposed development on Gallison Hill Road and the nearby Route 2 intersection. No comprehensive analysis has been presented to address safety, congestion, and signalization constraints in accordance with regional transportation planning standards.
3. Prime Agricultural Soils — The site contains areas of Prime Agricultural Soils (Prime Ag Soils). The plan does not include the required analysis or mitigation measures to preserve or compensate for the loss of these soils, as called for by both state statute and the Regional Plan.

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	Printed Name	Signature	Address	Municipality
3	ZACHARY HUGHES		3 PROSPECT ST #108	MONTPELIER
4	Ken Russell		317 BEECH ST	MONTPELIER

	Printed Name	Signature	Address	Municipality
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5	GALE COTNOIR	<i>Gale Cotnoir</i>	main st 155	montpelier
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6	STEPHEN WHITAKER	<i>Stephen Whitaker</i>	Montpelier Vermont	Montpelier
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Printed Name | Signature | Address | Municipality

7 Nancy Belle Collett, M.D. Nancy Belle Collett, M.D. Montpelier, VT 05602

73 Main St, Apt. 54

James O'Hanlon | [Signature] | 3 Lower Hancock Brook Rd. | Worcester

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Printed Name | Signature | Address | Municipality

8 Peter Kelman P. Kel 6 Mountainview St. Montpelier

9 CAROLYN S. RIDPATH [Signature] 9 FRANKLIN ST #3 MONTPELIER

10 Stan Brinkerhoff [Signature] 186 Main Montpelier

11 Jennifer Roberts Jennifer Roberts 12 Mountainview St Montpelier

12 NEVILLE BERLE Neville Berle 155 MAIN ST, MONTPELIER

13 Phyllis Rubenstein Phyllis Rubenstein 15 College St, Montpelier

PETITION FOR REGIONAL REVIEW OF MONTPELIER CITY PLAN 2025

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2. Traffic Impacts — The plan fails to adequately assess the significant regional traffic impacts of the proposed development on Country Club Road and the nearby Route 2 intersection. No comprehensive analysis has been presented to address safety, congestion, and signalization constraints in accordance with regional transportation planning standards.
3. Prime Agricultural Soils — The site contains areas of Prime Agricultural Soils (Prime Ag Soils). The plan does not include the required analysis or mitigation measures to preserve or compensate for the loss of these soils, as called for by both state statute and the Regional Plan.

THEREFORE, the undersigned respectfully request that the Regional Review Panel examine the Montpelier City Plan 2025 for consistency with the statutory goals of 24 V.S.A. § 4302, its compatibility with the Central Vermont Regional Plan, and its compatibility with the plans of adjoining municipalities.

Printed Name	Signature	Address	Municipality
14 JOE CASTELLANO		3 SWABIN ST	Montpelier
15 Walter Carpenter		155 Main	Montpelier

	Printed Name	Signature	Address	Municipality
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16

Peter Thoms

Pete Thoms

16 Fuller St

Montpelier

17

Cale Bradford

Cale Bradford

28 Main St

Montpelier

18

Dawn Little

Dawn Little

Montpelier

19

Scott Duke

Scott Duke

145 Berlin Street

Montpelier

20

Jason Harries

Jason Harries

21 colonial dr

Montpelier

21

William French

William French

283
River St

Montpelier

Agency of Commerce and Community Development
National Life Building - 1000 North Street
One National Life Drive
Montpelier, VT 05620-0501
accd.vermont.gov

[phone] 802-828-3211
[fax] 802-828-3383

Exhibit A (Corrected)

To: Stephen Whitaker and Petitioners (signatories of the “Petition for Regional Review of Montpelier City Plan 2025”)

From: Maxwell Krieger, General Counsel, Department of Housing and Community Development, Agency of Commerce and Community Development

Re: *Petition under 24 V.S.A. § 4476 – Montpelier City Plan 2025*

Date: September 8, 2025

This letter acknowledges receipt by the Agency of Commerce and Community Development (ACCD) of the Petition for Regional Review of Montpelier City Plan 2025, originally submitted to ACCD Secretary Lindsay Kurrle on August 27, 2025. Secretary Kurrle originally acknowledged receipt via email to Mr. Whitaker on August 29, 2025. This matter was referred to the Department of Housing and Community Development (DHCD) within ACCD for review and response. DHCD administers statute-based programs and guidance with the Regional Planning Commissions and municipal planning offices.

As explained below, review of the petition and relevant statute leads to the conclusion that ACCD is not statutorily empowered to take further action with regard to this Petition. Statute only requires ACCD to receive notice.

Please note, this letter intends only to provide context for ACCD’s determination herein, and not to provide legal advice to individuals or groups, nor should it be used by recipients to inform them of their legal rights. Recipients should consult with private counsel regarding legal interpretation and decision making.

* * *

Statutory Background:

The Petition requests review of the Central Vermont Planning Commission (CVRPC) approval of the 2025 Montpelier City Plan, pursuant to [24 V.S.A. Chapter 117](#) §4476 “Formal review of regional planning commission decisions.”

§4476 states in relevant part:

*(a) Formal review. A request for formal review of the sufficiency of an adopted regional plan or amendment, or for formal review of the decision of a regional planning commission with respect to the confirmation of a municipal planning effort, or the decision relating to approval of a municipal plan, **shall be to the regional review panel created under section 4305 of this title.** A request for formal review shall be filed within 21 days of adoption of the plan or amendment or the decision. (Emphasis added in bold).*

(b) Standing. The following have standing to request formal review or become parties to formal review conducted under this section:

Agency of Commerce and Community Development
National Life Building - Corner 4th & State
One National Life Drive
Montpelier, VT 05620-0501
accd.vermont.gov

[phone] 802-828-3211
[fax] 802-828-3383

Exhibit A (Corrected)

(4) any 20 persons who by signed petition allege that the decision, if confirmed, will not be in accord with the requirements of this chapter, and who own or occupy real property located within any combination of the following:

(A) any municipality whose planning effort is the subject of the decision by the regional planning commission; or

(B) any municipality which adjoins a municipality whose planning effort is subject of the decision by the regional planning commission;

*(c) Procedure; **regional review panel**. Notice of formal review shall be sent by mail to the municipalities within the region, to the regional planning commission, and to the Agency of Commerce and Community Development and shall be accompanied by a statement of all reasons why the appellant believes the plan or opinion to be in error and all issues which the appellant believes to be relevant. Within 30 days of receipt of the notice of formal review, the date for a hearing shall be set and **the council** shall publish notice of the hearing in a newspaper of general circulation in the applicable region, and shall provide notice in writing of the hearing to individuals and organizations that had requested notice from the regional planning commission under section 4348 relating to the adoption of a regional plan. The appellant shall pay the costs of publication. The hearing shall be held within 45 days of receipt of the notice of formal review. Upon motion, for good cause shown, the panel may extend the date of the hearing. Within 20 days of adjournment of the hearing, the regional review panel shall issue a decision approving, conditionally approving, or disapproving the regional plan or amendment or the opinion with respect to confirmation of the municipal planning effort or approval of the municipal plan. The regional review panel shall be governed by the provisions for contested cases in 3 V.S.A. chapter 25. (Emphasis added in bold).*

(e) Stays.

(1) The filing of a notice of formal review shall not stay the effect of the plan or the decision of the regional planning commission, unless so ordered by the regional review panel.

* * *

ACCD Review:

First, CVRPC's confirmation of the Montpelier City Plan is not stayed by submission of the petition, pursuant to 24 V.S.A. §4476(e)(1).

Second, 24 V.S.A. §4305 was repealed in 2009 by the Vermont Legislature. 24 V.S.A. Chapter 117 no longer defines "regional review panel" or "council" in the context of "review of the decision of a regional planning commission with respect to the confirmation of a municipal planning effort" per

Agency of Commerce and Community Development
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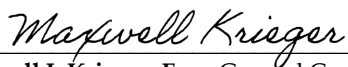
Exhibit A (Corrected)

§4476.

Prior to its repeal, §4305 created a “Council of regional commissions” and a process for appointing a “regional review panel.” That council and regional review panel no longer statutorily exist, and ACCD does not have statutory authority to create such a council or panel or to conduct such a review.

Therefore, the process for review under §4476 appears to lack statutory continuity to proceed. Responsibility for interpreting statute in this instance lies with the court system of the State of Vermont. Responsibility for correcting the gap in statutory procedure lies with the Vermont Legislature.

On behalf of the Agency of Commerce and Community Development,



Maxwell I. Krieger, Esq., General Counsel
Department of Housing and Community Development
Vermont Agency of Commerce and Community Development
1 National Life Dr., Deane C. Davis Bldg, 6th Floor
Montpelier, VT 05620
(802) 522-3132
Maxwell.krieger@vermont.gov
accd.vermont.gov

Cc: Lindsay H. Kurrle, ACCD Secretary
John W. Kessler, ACCD General Counsel

Exhibit B

From:

Stephen Whitaker
Montpelier, Vermont

TO:

Christian Meyer, Executive Director
Central Vermont Regional Planning Commission
Montpelier, VT 05602

COPY TO:

Lindsay Kurrle, Secretary
Agency of Commerce and Community Development
Montpelier, VT 05620-0501

RE: Submission of Substitute Appeal under 24 V.S.A. § 4476 – Montpelier City Plan 2025

Dear Mr. Meyer and Secretary Kurrle,

Enclosed please find a **Substitute Appeal to Convene a Regional Review Panel** under 24 V.S.A. § 4476, replacing the appeal filed on August 27, 2025. This substitute filing incorporates Exhibit A (*CCR Content Location Comparison*) and expands upon the original to provide a fuller evidentiary record and clearer statutory framing.

As appellant, I appear individually and do not represent or speak for the original petition signers. Those individuals signed the petition to invoke the statutory review process and are not parties to this proceeding on the merits unless they choose to be.

This appeal is significant for two reasons:

1. **First Use of the Current § 4476 Appeal Process** – To our knowledge, there is no prior instance of a municipal plan appeal reaching the Regional Review Panel under the post–Council of Regional Commissions framework. This will be the first such proceeding, requiring the Agency of Commerce and Community Development to convene a panel and guide its work.

Exhibit B


2. **Country Club Road as a Lens for Statewide Planning Standards** – The Montpelier City Plan 2025's treatment of the Country Club Road property offers a clear case study in how municipal planning can fall short of statutory requirements for public participation, compatibility analysis, infrastructure planning, natural resource protection, and integration with state planning goals.

By examining these shortcomings through the CCR example, the enclosed petition invites the panel not only to correct deficiencies in Montpelier's plan, but also to set a precedent that strengthens municipal and regional planning practices statewide—especially important as Act 181 implementation proceeds and the Land Use Review Board assumes its new role.

I respectfully request that the CVRPC promptly transmit this petition and Exhibit A to the Secretary of ACCD, and that ACCD move without delay to appoint the Regional Review Panel so this matter may be heard.

Please confirm receipt of this filing at your earliest convenience.

Respectfully,

A handwritten signature in black ink, appearing to read "Stephen Whitaker", is enclosed in a light gray rectangular box.

Stephen Whitaker

Enclosures:

1. Substitute Appeal to Convene Regional Review Panel (with Exhibit A)

Exhibit B

TO:

Central Vermont Regional Planning Commission
29 Main Street, Suite 4
Montpelier, VT 05602

COPY TO:

Lindsay Kurrle, Secretary
Agency of Commerce and Community Development
1 National Life Drive, Davis Bldg, 6th Floor
Montpelier, VT 05620-0501

RE: Appeal Under 24 V.S.A. § 4476 – Montpelier City Plan 2025

FROM: Stephen Whitaker, Appellant

NOW COMES Petitioner Stephen Whitaker, pro se, and respectfully submits this Substitute Appeal under 24 V.S.A. § 4476. This filing supersedes in its entirety the Appeal filed on August 27, 2025. That earlier filing and petition signatures remains in the record for reference, but this document is intended to serve as the operative, foundational filing for defining the scope of review by the Regional Review Panel once appointed.

INTRODUCTION & PROCEDURAL BACKGROUND

Appellant Stephen Whitaker appears individually and does not represent or speak for the other signatories to the August 27 petition. Those individuals joined to invoke the statutory review process; they are not parties to this proceeding on the merits unless they choose to be, either as witnesses or appellants. The caption is amended accordingly.

Procedural Context

The Council of Regional Commissions, once designated by statute to review appeals under § 4476, was repealed by the Vermont Legislature. Under the

Exhibit B

current statutory framework, the responsibility to convene a Regional Review Panel appears to now rest with the Secretary of the Agency of Commerce and Community Development (ACCD). This appeal is being filed with the Central Vermont Regional Planning Commission (CVRPC) and is copied to the Secretary of ACCD to ensure the panel is promptly convened as required by law.

Why This Appeal Matters

The Montpelier City Plan 2025 appears to be the first municipal plan in our region to undergo appeal since the repeal of the Council of Regional Commissions. This review is therefore not only a test of Montpelier's statutory compliance but also of the effectiveness and fairness of the new appeal process. The Country Club Road (CCR) property—one of the City's most significant and expensive land acquisitions—is the clearest lens through which to examine the adequacy of the plan. CCR is being positioned as Montpelier's "primary housing growth site," yet the adopted plan fails to meet multiple statutory requirements for land use, infrastructure planning, natural resource protection, and citizen participation.

The deficiencies in this plan are not abstract. They have real implications for the City's ability to balance growth, protect resources, and make sound public investments. The CCR example will be referenced throughout this petition because it crystallizes both the opportunities and the risks inherent in the City's approach—and because its planning shortcomings are representative of broader issues affecting the entire plan.

Approach of This Petition

This petition is organized to first explain, in plain language, what each relevant statutory provision requires and then to show how Montpelier's plan meets or fails to meet those requirements. Each deficiency section ties back to the statutory text, provides specific examples—often from CCR—and identifies what a compliant plan would contain. Exhibit A, attached separately, is a side-by-side comparison showing where statutory content is missing from the adopted plan.

Exhibit B

SECTION 2 – EXPANDED DEFICIENCIES & STATUTORY WALKTHROUGH

1) Failure to Apply the Statutory Four-Part Compatibility Test (§ 4302(f))

What the Statute Requires:

A municipality must demonstrate that its plan is compatible with:

1. The goals of § 4302(c);
2. The Regional Plan;
3. The approved plans of adjoining municipalities; and
4. Other relevant State policy plans.

Deficiencies in the Montpelier Plan:

- No documented four-part compatibility analysis.
- No explanation of how CCR development aligns with Regional Plan designations (outside the Growth Center, inside the Rural Area).
- No analysis of potential conflicts with adjoining municipalities' plans or State policy plans.
- Missing explicit findings of compatibility in the adopted plan.

CCR Example:

The City designates CCR as a “primary housing growth site” without reconciling this with the Regional Plan’s designation of the site as “Rural” or how rural area policies apply or identifying mitigation for potential conflicts.

Exhibit B

2) Land Use Element Deficiencies (§ 4382(a)(2))

What the Statute Requires:

A mapped land use plan showing:

- Present and prospective land uses;
- Lands to be protected;
- Amount, intensity, and character of development;
- Areas reserved for public investment.

Deficiencies in the Montpelier Plan:

- No quantified density or build-out potential for CCR.
- No sequencing of CCR development tied to infrastructure capacity.
- No mapped environmental constraints (riparian buffers, wetlands, prime ag soils) in the plan body—these appear only in separate documents not incorporated by reference. (*See Exhibit A*)

What Compliance Would Look Like:

- Integrated maps in the plan or appendix showing constraints and intended uses.
 - Density ranges tied to infrastructure milestones.
 - Clear designation of protection areas within CCR.
-

Exhibit B

3) Transportation Element Deficiencies (§ 4382(a)(3))

What the Statute Requires:

A plan for a safe, convenient, and energy-efficient transportation system, correlated with land use.

Deficiencies in the Montpelier Plan:

- No CCR-specific traffic or intersection capacity analysis (US-2/Gallison Hill Road, alternate access).
- No multimodal access plan.
- No link between CCR phasing and transportation improvements.

CCR Example:

Without traffic modeling or multimodal planning, CCR development risks congestion and undermines the plan's stated multimodal goals.

4) Utilities and Facilities Element Deficiencies (§ 4382(a)(4))

What the Statute Requires:

Plans for present and prospective community facilities and utilities, including: water, sewer, stormwater, power, broadband, schools, and parks.

Deficiencies in the Montpelier Plan:

- No detailed CCR utility extension plan.
- No cost estimates or identified funding sources.
- No phasing schedule for utility installation.
- Reliance on speculative future TIF revenue without capital program integration.

Exhibit B

5) Housing Element Deficiencies (§ 4302(c)(11))

What the Statute Requires:

Provision for safe and affordable housing for all income levels, integrated with services.

Deficiencies in the Montpelier Plan:

- Heavy reliance on CCR to meet citywide targets without a defined affordability mix or distribution of unit types.
 - No integration plan linking CCR housing to services, transportation, or schools.
 - No phasing to avoid over-concentration in a single location.
-

6) Agricultural Soils (§ 4302(c)(2))

What the Statute Requires:

Identification and protection of prime agricultural soils.

Deficiencies in the Montpelier Plan:

- No CCR-specific prime ag soils mapping in the plan.
 - No mitigation strategy for soils conversion.
 - Mapping exists only in external documents not adopted into the plan. (See *Exhibit A*)
-

Exhibit B

7) Capital Program Deficiencies (§ 4382(a)(10))

What the Statute Requires:

A program for public capital investments with cost estimates, funding sources, and timeframes.

Deficiencies in the Montpelier Plan:

- No CCR-specific entries in the capital budget.
 - No secured funding commitments.
 - No phasing to align investments with development.
-

8) Deficiencies in Citizen Participation (§ 4384)

What the Statute Requires:

Meaningful citizen participation, timely access to plan content, and integration of public and committee input into the plan.

Deficiencies in the Montpelier Plan:

- The Housing Committee's year of work disregarded; Stan Brinkerhoff's resignation letter documents disenfranchisement. All four women on the committee also resigned.
 - Transportation Infrastructure, Conservation Commission, Homelessness Task Force, and Complete Streets members report being marginalized or not consulted.
 - Key CCR analyses (designation criteria, soils mapping, infrastructure costs) relegated to "additional resources" outside the plan, limiting timely public review.
-

Exhibit B

9) Pattern of Process Failure

From the initiation of the plan drafting to the final approval vote, multiple levels of review failed to correct the statutory and procedural deficiencies documented in Section 2. These failures occurred at six distinct levels:

1. **Planning Staff** – Managed the process in a way that limited independent committee input. Key standing committees were marginalized, and important analyses were placed outside the adopted plan.
 2. **Planning Commission** – Deferred to staff without performing an independent statutory compliance review.
 3. **City Council** – Adopted the plan without conducting its own due diligence on statutory compliance or committee concerns.
 4. **Regional Planning Commission Staff** – Relied heavily on municipal staff checklists. In some cases, RPC staff review plans they were paid to help write — effectively *grading their own homework* — creating a conflict of interest or its appearance. (See *Exhibit A*)
 5. **Municipal Plan Review Committee of the RPC** – Held the statutory public hearing at the committee level rather than before the full board, depriving the public of the opportunity to address the entire body.
 6. **Full RPC Board** – Approved the plan without substantive debate, relying on the committee’s recommendation rather than conducting an independent review.
-

10) Recommended Legislative and Procedural Reforms

In light of the issues identified, the following reforms are recommended:

- **Independent Review** – Require municipal plans prepared with RPC assistance to be reviewed for statutory compliance by an independent third party.

Exhibit B

- **Full Board Hearings** – Require that statutory public hearings on municipal plan approval be held before the full RPC board, not delegated to a committee.
 - **Public Record Integration** – Ensure that all substantive analyses relied upon in drafting a plan are incorporated into the adopted plan or its appendices, not relegated to “additional resources” outside the statutory document.
-

Requested Relief


Petitioner respectfully requests that the Regional Review Panel:

1. **Find** that the Montpelier City Plan 2025 fails to comply with the requirements of 24 V.S.A. Chapter 117 as detailed in this petition.
2. **Remand** the plan to the City of Montpelier for correction of deficiencies, with specific direction to:
 - Incorporate CCR constraint mapping and statutory elements into the plan.
 - Conduct the four-part compatibility analysis required by § 4302(f).
 - Provide CCR-specific density, phasing, infrastructure, and capital program details.
 - Document and integrate substantive committee and public input.
3. **Recommend** that any RPC reviewing a municipal plan it was engaged in the preparation of, engage an independent reviewer to avoid a conflict of interest.

Exhibit B

4. **Recommend** legislative clarification that statutory public hearings on municipal plan approval occur before the full RPC board.

Respectfully submitted,



Stephen Whitaker
whitaker.stephen@gmail.com

September 2, 2025

Exhibit B

Exhibit A – CCR Content Location Comparison

This exhibit demonstrates a consistent pattern of statutory content required by 24 V.S.A. § 4382 and § 4384 being absent from the adopted Montpelier City Plan, and instead residing in the Country Club Road (“CCR”) Actionable Plan and its subsequent amendments. Constraints maps, prime agricultural soils mapping, potential archaeological site mapping, CCR-specific densities, phasing, infrastructure costs, funding sources, and transportation capacity analyses are located only in the CCR project documents.

Because the CCR Actionable Plan and related memos are not part of the adopted City Plan or its official appendices, this approach creates two statutory deficiencies:

1. § 4382 compliance – The municipal plan itself must include the required elements and supporting maps, not refer out to external resources.
2. § 4384 compliance – Reliance on 'Additional Resources' links undermines accessibility, permanence, and transparency, particularly for those without online access or who are reviewing the printed plan.

The table on the following pages details where each required topic is addressed in the adopted City Plan, where it appears in CCR project materials, and why this separation constitutes a compliance failure.

Required Statutory Topic	City Plan 2025	W+B “Actionable” Report	Notes for Argument
Constraints map (streams, buffers, slopes)	Not embedded; plan chapters link to CCR page.	Yes – CCR maps/attachments. Subcommittee memo: 'attached map identify... buildable areas.'	Constraints must be embedded in adopted plan/appendices; hyperlinking is insufficient.
Prime agricultural soils at CCR	No site-specific mapping in Plan.	In CCR constraints/buildable areas mapping.	Fails § 4302(c)(2) when prime soils mapping is only external.
Archaeological / cultural resources	No CCR-specific treatment in plan.	Punted to developer per staff memo.	Plan should set policy now; externalizing is a compliance gap.
CCR density / unit ranges	~300-500 units; no adopted density map or phasing.	Subcommittee memo: min. 300 units; buildable areas map.	Plan needs numeric standards & phasing linked to infrastructure (§ 4382(a)(2)–(4)).
Transportation access & mitigation	General goals; no CCR-specific capacity/safety analysis.	Layouts changed in CCR concept/updates.	§ 4382(a)(3) requires correlation of transportation to land use.
Utilities & costs / funding / sequencing	No CCR-specific cost/funding schedule; references CIP.	Discussed in CCR materials; reliant on future TIF/Growth Center.	§ 4382(a)(4), (10) require cost/funding/sequence in plan.
Resilience / emergency use of CCR	General resilience goals only.	Not designated in CCR docs as adopted policy.	Plan should designate CCR roles for sheltering/resilience (§ 4302(c)(14)).
Citizen participation record	Engagement dubious no embedded committee outputs.	CCR web page aggregates materials; not in adopted text.	Fails § 4384's purpose; accessibility and permanence compromised.

CENTRAL VERMONT REGIONAL PLANNING COMMISSION
Exhibit C **BOARD OF COMMISSIONERS**
Special Meeting
Draft Minutes
August 21, 2025

Commissioners:

<input checked="" type="checkbox"/> Barre City	Janet Shatney, Sec/Treas	<input checked="" type="checkbox"/> Moretown	David Stapleton
<input type="checkbox"/>	Vacant	<input type="checkbox"/>	Joyce Manchester, Alt
<input type="checkbox"/> Barre Town	Alice Farrell	<input checked="" type="checkbox"/> Northfield	Royal DeLegge
<input type="checkbox"/>	Phil Cecchini	<input type="checkbox"/>	Jeff Schulz, Alt
<input checked="" type="checkbox"/> Berlin	Robert Wernecke	<input checked="" type="checkbox"/> Orange	Lee Cattaneo, Vice Chair
<input type="checkbox"/>	Karla Nuisssl, Alt.	<input checked="" type="checkbox"/> Plainfield	Paula Emery
<input checked="" type="checkbox"/> Cabot	Brittany Butler	<input type="checkbox"/>	Bob Atchinson, Alt.
<input checked="" type="checkbox"/> Calais	John Brabant	<input type="checkbox"/> Roxbury	Jerry D'Amico
<input type="checkbox"/>	Melanie Kehne, Alt.	<input checked="" type="checkbox"/> Waitsfield	Alice Peal
<input type="checkbox"/> Duxbury	David Wendt	<input checked="" type="checkbox"/>	Don La Haye, Alt.
<input type="checkbox"/>	Vacant	<input type="checkbox"/> Warren	Jim Crafts
<input checked="" type="checkbox"/> E. Montpelier	Zoe Christiansen	<input type="checkbox"/>	Adam Zawistowski, Alt.
<input checked="" type="checkbox"/>	Clarice Cutler, Alt.	<input checked="" type="checkbox"/> Washington	Peter Carbee, Chair
<input type="checkbox"/> Fayston	Andrew McNealus	<input checked="" type="checkbox"/> Waterbury	Doug Greason
<input type="checkbox"/> Marshfield	Vacant	<input checked="" type="checkbox"/> Williamstown	Richard Turner
<input checked="" type="checkbox"/> Middlesex	Ron Krauth	<input type="checkbox"/>	Jacqueline Higgins, Alt.
<input checked="" type="checkbox"/>	Mitch Osiecki, Alt.	<input checked="" type="checkbox"/> Woodbury	Michael Gray
<input checked="" type="checkbox"/> Montpelier	Mike Miller	<input checked="" type="checkbox"/> Worcester	Bill Arrand

Staff: Christian Meyer, Nancy Chartrand, Niki Sabado, Brian Voigt, Reuben MacMartin, Lory Banbury

Guests: Stephen Whitaker, Montpelier; Thomas Weiss, Montpelier; Sarah Miller; Sean Linehan, Montpelier Planning Commission; Renee Carpenter, East Montpelier; Leah Candland, Montpelier Planning Commission; Ben Doyle, Montpelier City Council; Aaron Kisicki, Montpelier Planning Commission; Andrew Christiansen

Call to Order: Chair Carbee called the meeting to order at 6:32 pm, a roll call was completed, and a quorum was present.

Adjustments to the Agenda: There was clarification on what would be voted on as outlined in the agenda.

Public Comments: Chair Carbee advised that for the Montpelier City Plan there would be a five minute time limit per person. For comments unrelated to items on the agenda there would be a three-minute time limit per person during public comment and opened the floor. Stephen Whitaker read from a prepared statement, asserting that a public hearing is required by 24 VSA, §4350 and noted today's meeting was warned as a public meeting so he believes it may not meet statutory requirements. He also asserted the Regional Planning Commission's (RPC's) role in the review process may be compromised when author of the municipal plan being reviewed is also the municipality's appointed RPC's commissioner, serves on the Regional Plan Committee and participates in shaping the review process. He asserted recusal from final vote is necessary. Christian Meyer responded there is nowhere in statute that it states a hearing should be before the full board of commissioners, and this has been our practice since 2018 when adopted by municipal plan review committee, executive committee and the full board as part of the rules of procedure for each committee; he also noted this is how it is done throughout the state.

Montpelier City Plan: Christian Meyer reviewed the three motions outlined in the meeting packet and outlined the process for the meeting. He advised the Montpelier City Plan has been adopted by the municipality, staff has reviewed the plan, the Municipal Plan Review Committee (MPRC) has held a hearing and moved to recommend approval, the Board wanted additional time to receive response to public testimony and requested this special meeting. The packet includes regional checklist (state requirements and state planning goals), compatibility assessment with the regional plan, public comments with staff research and response. Niki Sabado also reviewed background of the plan review process as outlined in the packet.

The floor was opened to public comment on the Montpelier City Plan (MCP):

Mike Miller opened the public comment with an intro to the MCP noting it was a long-involved process that resulted in a new innovative plan design. It is intended to be viewed as a web-based document but is also downloadable and printable. He advised it was the first of its kind in Vermont and was awarded Vermont Planners Association Plan of the Year for 2025. He noted the process included many opportunities for public participation which were detailed. He noted the plan meets state requirements and deserves Commissioner approval. He also took a few moments to share matrices of comments from public, staff comments, and decisions made as a result of the comments.

Brian Voigt read Mayor McCullough's letter into the record. In which the mayor urged the Board to approve Montpelier's plan. It was confirmed the date of the letter was August 21, 2025.

Thomas Weiss noted some unaddressed concerns from his previous comments. He asserted the plan does not show inventory studies and analyses of current trends where appropriate and was troubled by the lack of response to this comment. He believes there was no solid information and analyses as required by statute in the City Plan. He also noted the lack of cost estimates and method of financing for future needs. He noted the cost level of high-med-low but stated the plan has no outline of the definitions of those. He believes staff response is inappropriate given the city's annual budget. He noted the City's present Capital Improvement Plan only extends to middle of 2028. He believes these are serious omissions in the City Plan.

Stephen Whitaker stated he believes there is dysfunction in the Montpelier Planning Department and in the Regional Planning Commission review process. He read from a memo as to why the MCP should not be approved at this time. He asserted the MPC is not compatible with the existing Regional Plan. Specifically noting the following four-part compatibility test which examines:

1. land use designation alignment
2. Impacts on critical resources
3. Infrastructure capacity
4. Potential for mitigation

He believes the MCP does not have the outlined analysis for Country Club Road (CCR) and believes it must before the plan can be found compatible and further went on to state his transportation concerns. He protested the 5-minute limit, again stating it was required to be a public hearing. He noted additional concerns with the White & Burke report on CCR, master planning development, the city decision to not pursue a growth center. He believes the MCP has no binding integrative framework for CCR. He reiterated he does not believe the MCP is compatible and a public hearing is required.

Ben Doyle, resident and member of City Council thanked the Board for their leadership and noted the importance of planning and stated he strongly supports the MCP. He reiterated there was an active participation process throughout and that the critics are full of passionate intensity and are entitled to those opinions, but noted it is important that it not subvert the process. He further outlined the process that was

undertaken and reiterated the importance to the City of Montpelier that we move forward in a positive and optimistic way and requests the RPC's approval.

Exhibit C

Sean Linehan, Montpelier Planning Commission, also spoke in support of the City Plan, reiterating points made by Mike Miller, Ben Doyle and the Mayor. He thanked the RPC for putting together the assessment document that was included in tonight's packet.

The floor was opened to discussion by the Board. Zoe Christiansen stated that she does not disagree with the plan based only on feelings and emotion but based on statistics and data. She shared concerns about housing and traffic issues which she asserted have not been addressed.

Alice Peal raised concerns regarding the City's Growth Center application being withdrawn. She asserted the Plan can't be voted on until document is edited with the narrative changed because City Council applying for the Growth Center is still a goal highlighted in housing and land use chapters. She requested Montpelier come back with a plan the Board can vote on, suggesting that an extension could be applied for.

John Brabant reiterated he met with Peter Carbee and Christian Meyer regarding his concerns in July. He asserted most of the plan appears to be well done but noted there are problems with the traffic. He asserted the Board's role is not to just approved town plans. He noted the role of the commission is to look out for the region to cooperatively work together on a plan for development and its infrastructure. He stated it should be ensured we put together a program where everyone works well together, and burdens aren't shifted from one municipality to another. He went on to further state his traffic concerns related to the potential CCR development. He noted concerns with the town being a developer and self-regulator. He shared concern with staff's review of the transportation and requested the Board not vote for the City Plan. He reminded board members they are only voting on the plan language and reiterated CCR is currently designated as rural ag, stating it is conflict. He stated if we are not going to be the check on development spilling into other communities, we are not doing our jobs.

Mike Miller noted that CCR is just one portion of the City Plan and reminded the Board that plans are aspirational – and the growth center is a strategy – not a goal. The goal to develop the area is still in play. He reiterated the housing needs in Montpelier and the numbers suggested to be needed in the region. He reiterated Montpelier is a job center and the need for more housing close to the downtown to avoid pressure on rural countryside. He reiterated 600 units was planned throughout Montpelier, not specifically at CCR. He noted currently the city is working to address the traffic concerns and that traffic impact statements occur when you have a project. He noted a preliminary assessment was completed two years ago, and a full assessment would not be completed until a project is planned. He reiterated that Montpelier has professional staff (engineer) to complete analysis and have a traffic impact study completed. He again reiterated plans are aspirational documents and don't need to be revised every time something within them changes and noted it is required to have options in the plan. He reiterated the Board will have opportunity to have a say when such projects may come forward in the future.

Zoe Christiansen shared additional concerns related to housing and regarding new development and economics of new workers and whether they could afford brand new housing. She also shared her concern regarding short term rentals and urged people to take more time to review stating there is no need to rush and for it to be refined before it is pushed through.

Alice Peal took issue with the comment that Montpelier is solving problems for the rest of towns, noting it will not solve Mad River Valley's problems. She reiterated the traffic issue and its regional impact. She also noted the Land Use Review Board Tier III overlay may affect the type of building and environmental issues in many areas. She states every municipality has unique problems and noted the plan is conceptual but doesn't believe

it is ready for completion yet. She again made note of Montpelier needing to change growth center language due to withdrawing its recent application, specifically related to HO.7 “continue to participate in the growth center program and expand the district as appropriate”.

Exhibit C

Mike Miller clarified that the city already has a growth center so the description “continue to participate in the growth center program and expand the district as appropriate” is correct as they will expand as appropriate in the future. He commented Montpelier is not trying to solve everyone’s problem, but they want to try to do their part to bring more housing to the region and to Montpelier. He noted the city purchased the CCR property with the intention to try and create affordable housing up to a certain percentage. He noted the design of the through roads are to make public transportation more efficient. He also noted that the three major barriers to participation in workforce are affordable housing, childcare and public transportation. Montpelier has plans for each one of those pieces. He reiterated future traffic assessments will be completed.

Christian Meyer followed up on some of the comments that have been made. He stated he believed the plan is strong on data, specifically the housing section. The point about short term rentals is great and is a level of detail that hasn’t been required yet. He clarified the need to take action within 60 days/2 months of the last public hearing per statute and noted we are coming up to that near the end of this month and if we haven’t approved the plan, we need to provide a reason to the municipality as to why not. Our not approving does not invalidate the plan. He also spoke to the fact that incentives and statutes are constantly changing and requiring plans to constantly change to meet those seems to be a hard bar to pass. He clarified there is not an option to extend a municipal plan. He stated the plan being conceptual is what is usually expected of a municipal/master plan. He asserted a lot of the details related to traffic are going to come in the implementation process. It is the board’s responsibility to address the regional burden in the regional plan, speaking to rural land use and vague interpretations of compatibility.

Zoe Christiansen again reiterated she has received no information on why more affordable housing should be built and states we only need affordable housing in the legislative sense. She also shared her opinions on public transportation. She also brought up concerns with homelessness and transitional housing.

John Brabant reiterated the problem is conflating what is in the plan with what is going on outside the plan, noting we are voting on the language that is in the plan. He stated the plan does not discuss CCR development, and alternative routes to that development and reiterated his concerns related to that and current transportation issues. He’s concerned with that project going to the Land Use Review Board and our Project Review Committee stating it is consistent with our regional plan based on our approval of the MPC if we approve tonight. He again urged commissioners to not vote yes and believes the board is setting itself up for legal jeopardy if they vote yes.

Robert Wernecke stated he would like the board to move forward noting we’ve heard from the same people repeatedly.

Royal DeLegge echoed Robert’s comment and also noted Northfield’s plan is an aspirational plan and their planning commission would not want the RPC to specify infinitely small details on what they could and could not do in an aspirational document. He believes the RPC role is simple - is this plan that Montpelier has presented conformant with the regional plan, he reiterated the process that has occurred and stated he would like to see process move forward.

Paula Emery noted hearing strong positions on both sides, and asked if there was a no vote are there specific recommendations that the board would need to make at this meeting tonight.

Robert Wernecke moved to approve the City of Montpelier Plan, seconded by David Stapleton.

Christian responded to Paula's question, noting we would have to supply a reason to municipality why it did not pass. **Exhibit C** We would be the board, so dissenters would have to play a role in drafting that.

Bill Arrand asked Christian how he would address this major problem of the traffic. Christian spoke to compatibility stating we would have to demonstrate how the traffic impact of development along the two phased project of Sabins Pasture and CCR would negatively impact one of our policies, we do have a policy around maintaining a good level of service on all our roads, so would need to then demonstrate that this would not significantly reduce the desired effect of the implementation of the other plan. We would have to show that it would significantly reduce the desired effect of the implementation of the CVRPC plan as currently written. John Brabant reframed what he said for clarity – he reiterated it was because the CCR project in the plan was so specific stating it would use one road, and our approving the plan would say using one road is consistent and not a conflict with our regional plan expectations.

Bill Arrand asked Mike Miller to address John's comments. Mike read from the MCP the LU1 CCR Strategy reiterating that it states what the CCR site could accommodate, not what it will accommodate. It states "this site could accommodate at least 300 housing units, although the exact number will be determined by the development process, the housing will likely be built by for-profit and non-profit entities over the coming years but it will require the city to extend the utilities such as sewer and water, and to build out the road system". For transportation for CCR the MPC states "regarding transportation this site offers an opportunity to provide significant improvements in Montpelier's connectivity. Today nearly all vehicles are funneled through the downtown. The CCR and Sabins Pasture projects could allow a complete street that connects the East Montpelier Road to Barre Street and College Street. In the future a connection could also be made to Towne Hill but no route has been identified at this time." He stated these are not definitive, but they are aspirations that they are aspirations / goals. He encouraged commissioners to support the plan. He reiterated every project would have a traffic study which would analyze the most appropriate way to address. He reiterated the document is aspirational and that housing is needed.

Royal Delegge thanked the Chair Carbee for hearing all opinions and stated a lot of reiteration is occurring and called the question. Chair Carbee requested the public comment be allowed first. Royal requested new information only be allowed. Brian Voigt spoke briefly on Tier III designations under the future land use map, noting skepticism that much if any of Montpelier would be designated as a Tier III. With regard to an Act 250 project coming to the board for review, he noted this is not a forgone conclusion, primarily because to the City may choose pursue either Tier Ia or Tier Ib designations under the future land use map, both of which carry some waivers for review of housing. Therefore review of any CCR housing project may not go for review in front of the Act 250 board.

Chair Carbee opened the floor to public comment – 2 minutes per person.

Stephen Whitaker asserted CCR was not walkable/bikeable, stating it was several miles from town. He stated that a traffic study wasn't completed for the lease with Turtle Island for a day care of 100 students. He believes it should have triggered a study. He asserted the areas where this is not compliant is traffic, the rural designation on the existing regional plan, and on prime ag soils. He stated the 4 part analysis has not been done by staff or the City Planner for these, which requires identifying inconsistency, consider reasonable alternatives and evaluate the benefit vs the detriment and propose mitigation. He states the MPC can't be approved as is until the regional plan is readopted next year.

Aaron Kisicki stated he's been on Planning Commission for 7-8 years and noted work was already underway for this plan at that time. He stated the Planning Commission grappled mightily with how to properly scope this plan and document. They acknowledged it was a fluid situation with respect to housing, economical development and transportation and deliberately scoped it in a way that would allow them to be flexible and

allow for implementation plans to fill in any significant gaps in the aspirations and goals that are laid out by the plan. He noted the Planning Commission is committed to have continued discussions with stakeholders in potentially revisiting certain chapters of the plan to improve it.

Exhibit C

Chair Carbee reviewed the motions before the Board:

- 1) Approval of the Montpelier City Plan 2025.
- 2) Confirm the planning process of the City of Montpelier.
- 3) Adopt the resolution documenting the Montpelier City Plan approval and planning process confirmation by CVRPC.

Vote called for approval of the plan and roll call conducted with discussion stating Mike Miller should vote: Barre City – yes; Berlin – aye; Cabot – aye; Calais – no; East Montpelier – no; Middlesex – yes; Montpelier – aye; Moretown – aye; Northfield – aye; Orange – aye; Plainfield - abstain; Waitsfield – no; Washington – aye; Waterbury – aye; Williamstown – no; Woodbury – yes; Worcester – aye; It was confirmed the motion passes with 12 ayes, 4 nays and 1 abstention

Lee Cattaneo moved confirmation of planning process seconded by Bill Arrand.

Vote called and roll call conducted: Barre City – aye; Berlin – aye; Cabot – aye; Calais – dropped from meeting; East Montpelier – dropped from meeting; Middlesex – yes; Montpelier – yes; Moretown – yes; Northfield – yes; Orange – yes; Plainfield - abstain; Waitsfield – abstain; Washington – aye; Waterbury – aye; Williamstown – no; Woodbury – yes; Worcester – aye. It was confirmed the motion passes with 12 ayes, 1 nay, and 2 abstentions

Chair Carbee read the resolution into the record.

Robert Wernecke moved to sign the resolution, seconded by Janet Shatney.

Vote called and roll call conducted: Barre City – yes; Berlin – aye; Cabot – aye; Calais – dropped from meeting; East Montpelier – dropped from meeting; Middlesex – yes; Montpelier – yes; Moretown – yes; Northfield – aye; Orange – aye; Plainfield - abstain; Waitsfield – dropped from meeting; Washington – aye; Waterbury – aye; Williamstown – no; Woodbury – yes; Worcester – aye. It was confirmed the motion passes with 12 ayes, 1 nay, and 1 abstention and that Chair Carbee would be signing.

Adjournment: Lee Cattaneo moved to adjourn at 8:48 pm; seconded by David Stapleton. Motion passed unanimously.

Respectfully submitted,
Nancy Chartrand, Office Manager

STATE OF VERMONT

SUPERIOR COURT
WASHINGTON COUNTY

CIVIL DIVISION
DOCKET NO.

STEPHEN WHITAKER, Pro Se.)
Plaintiff,)
)
v.)
)
Vermont Agency of Commerce and)
Community Development;)
Lindsay Kurrle, in her official capacity as)
Secretary of the Agency of Commerce)
and Community Development;)
and)
Central Vermont Regional Planning)
Commission; and Christian Meyer, in his)
official capacity as Executive Director of)
the Central Vermont Regional Planning)
Commission)
)
Respondents.)

DATE: SEPTEMBER 8, 2025

Petition for Declaratory Judgment and Writ of Mandamus

Introduction

Petitioner Stephen Whitaker, pro se, brings this action pursuant to V.R.C.P. 57, 12 V.S.A. § 4711, and 12 V.S.A. § 3951, seeking declaratory and mandamus relief to compel the Agency of Commerce and Community Development (ACCD) and the Central Vermont Regional Planning Commission (CVRPC) to convene a Regional Review Panel under 24 V.S.A. § 4476.

Although the Legislature repealed 24 V.S.A. § 4305, which previously specified the appointing authority, left intact is the substantive right to panel review under § 4476.

Petitioner seeks a declaration that this right remains in force and an order directing Respondents to promptly take necessary action to convene an impartial panel consistent with prior statutory safeguards.

Parties

1. Petitioner Stephen Whitaker is a resident of Montpelier, Vermont, and the appellant in a pending § 4476 petition challenging the approval of the Montpelier City Plan 2025 by CVRPC.
2. Respondent Agency of Commerce and Community Development is an agency of the State of Vermont, headquartered in Montpelier.
3. Respondent Lindsay Kurrle is the Secretary of the Agency of Commerce and Community Development and is named in her official capacity.
4. Respondent Central Vermont Regional Planning Commission is a regional planning commission organized under 24 V.S.A. Chapter 117, with offices in Montpelier.
5. Respondent Christian Meyer is the Executive Director of the Central Vermont Regional Planning Commission and is named in his official capacity.

Factual Background

6. On August 21, 2025, CVRPC approved the Montpelier City Plan 2025. The approval is documented in the minutes of CVRPC's Special Meeting of the Board of Commissioners, attached as Exhibit C.

7. On August 27, 2025, Petitioner and other qualified signatories timely filed a petition under 24 V.S.A. § 4476 seeking formal review of CVRPC's decision. On September 2, 2025, Petitioner filed a Substitute Petition expanding upon and clarifying the grounds for appeal, attached as Exhibit B. The original August 27, 2025 signed petition remains in the record and can be produced if necessary to establish standing or timeliness.

8. On September 8, 2025, ACCD issued a written response declining to convene a Regional Review Panel, asserting that the repeal of § 4305 eliminated its appointing authority. This letter is attached as Exhibit A.

9. Section 4476 remains in effect and expressly provides the right to a de novo review of a regional planning commission's approval of a municipal plan by a Regional Review Panel.

10. The repeal of § 4305 created a procedural gap, but did not repeal the right to review under § 4476. Without court intervention, Petitioner's statutory right to review will be nullified.

Legal Argument

Count I – Declaratory Judgment

11. Vermont law disfavors implied repeals. A repeal will not be implied unless two statutes are irreconcilably repugnant or the later statute covers the whole subject matter of the earlier and is intended as a substitute. *State v. Watson*, 136 Vt. 607, 609 (1980); *State v. Rooney*, 2011 VT 14; *Vermont v. Joseph*, 2017 VT 68.

12. Courts must harmonize statutes when possible, giving effect to all provisions. *Glabach v. Sardelli*, 132 Vt. 490 (1974); *Our Lady of Ephesus House of Prayer, Inc. v. Town of Jamaica*, 2005 VT 16.

13. Courts also construe statutes to avoid absurd results or interpretations that nullify statutory rights. *State v. Baldwin*, 139 Vt. 449 (1981); *Roddy v. Roddy*, 168 Vt. 343 (1998); *Clark v. Clark*, 173 Vt. 350 (2001); *Civetti v. Turner*, 2020 VT 23.

14. Vermont's savings statute, 1 V.S.A. § 214(b)(4), provides that the repeal of a statute does not affect any right accrued or any proceeding commenced before the repeal. Petitioner's right to review accrued upon timely filing the petition.

15. Petitioner is entitled to a declaration that the right to review under § 4476 survives the repeal of § 4305 and that a successor appointing authority must be designated to convene the panel.

Count II – Mandamus

16. Mandamus is appropriate to compel the performance of a clear legal duty where there is no adequate remedy at law. 12 V.S.A. § 3951.

17. CVRPC has a duty under § 4476 to forward the petition to the appointing authority. ACCD, as the state agency with oversight of regional planning, has the responsibility to act as or designate the appointing authority to ensure compliance with § 4476.

18. The Regional Review Panel should be composed of members who (a) reside outside the geographic region of the CVRPC, (b) have no financial or political interest in the outcome, and (c) have not participated in the development, review, or approval of the Montpelier City Plan 2025. Appointments should be drawn from other regional planning commissions in Vermont or from qualified independent experts.

Relief Requested

WHEREFORE, Petitioner respectfully requests that this Court:

A. Enter a declaratory judgment that the right to review under 24 V.S.A. § 4476 remains in effect and survives the repeal of § 4305;

B. Issue a writ of mandamus compelling Respondents to appoint a Regional Review Panel meeting the impartiality criteria stated above, within 30 days of receipt of the Court's order;

C. Order Respondents to set a hearing date and issue public notice in compliance with §4476 within 30 days of receipt of the Court's order;

D. Award Petitioner costs under V.R.C.P. 54(d) and reserve the right to seek reasonable attorney's fees under the private attorney general doctrine;

E. Grant such other relief as this Court deems just and proper.

F. In the alternative, if this Court determines that the Vermont Superior Court Environmental Division is the appropriate forum to hear the merits of Petitioner's appeal following the appointment of a Regional Review Panel, Petitioner requests that this matter be transferred to the Environmental Division rather than dismissed.

Exhibits

Exhibit A – ACCD Letter, September 8, 2025

Exhibit B – Substitute Petition under 24 V.S.A. § 4476, September 2, 2025

Exhibit C – CVRPC Special Meeting Minutes, August 21, 2025

Note: The original August 27, 2025 signed petition remains in the record and may be produced if necessary.

Respectfully submitted this 8th day of September, 2025.

THE DEFENDANT/COUNTERCLAIM
PLAINTIFF

A handwritten signature in black ink, appearing to read "Stephen Whitaker", is centered within a light gray rectangular box.

Stephen Whitaker, Pro Se
Montpelier, Vermont
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STATE OF VERMONT

SUPERIOR COURT
WASHINGTON COUNTY

CIVIL DIVISION
DOCKET NO.

STEPHEN WHITAKER, Pro Se.)
Plaintiff,)
)
v.)
)
Vermont Agency of Commerce and)
Community Development;)
Lindsay Kurrle, in her official capacity as)
Secretary of the Agency of Commerce)
and Community Development;)
and)
Central Vermont Regional Planning)
Commission; and Christian Meyer, in his)
official capacity as Executive Director of)
the Central Vermont Regional Planning)
Commission)
)

DATE: SEPTEMBER 9, 2025

Notice of Supplemental Authority and Corrected Citation

Petitioner files this Notice to correct a citation in the Petition and to provide supplemental authorities relevant to statutory interpretation where a later enactment allegedly repeals an earlier statute by implication. This Notice does not alter the relief requested and is offered to aid the Court.

Corrected Citation (§ 11 of Petition)

The citation to State v. Watson in paragraph 11 should read:

- State v. Watson, 138 Vt. 276, 279–81, 413 A.2d 806, 807–08 (1980) (repeal by implication is disfavored; sets out the two-part test from Troy Conference Academy v. Poultney).

Supplemental Authorities

- State v. Foley, 140 Vt. 643, 646–48, 443 A.2d 452, 453–54 (1982) (reaffirming presumption against implied repeal; statutes should be harmonized where possible).
- Vermont Tenants, Inc. v. Vermont Housing Finance Agency, 170 Vt. 77, 83, 742 A.2d 745, 749 (1999) (same; harmonization rather than implied repeal).
- State v. Joseph, 2017 VT 52, ¶¶ 9–14 (rejecting implied repeal; explaining that later statute “filled the gap” without displacing existing law; harmonization preferred).
- Roddy v. Roddy, 168 Vt. 343, 347, 721 A.2d 124, 128 (1998) (courts construe statutes to avoid absurd results manifestly unintended by the Legislature).

These authorities support Petitioner’s core contention that 24 V.S.A. § 4476’s appeal right must be preserved and implemented despite the repeal of former § 4305, by designating a neutral appointing mechanism consistent with prior statutory safeguards.

Respectfully submitted this 9th day of September, 2025.

THE PLAINTIFF



Stephen Whitaker, Pro Se
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1. ACCD as Statutory Party. Section 4476 explicitly identifies the Agency of Commerce and Community Development (ACCD) as a party to proceedings before a Regional Review Panel. ACCD therefore cannot simultaneously act as a neutral appointing authority while also appearing as a statutory party whose interests may align with defending the approval of the Montpelier City Plan.

2. Legislative Gap. The repeal of § 4305 eliminated the Council of Regional Commissions as the appointing authority, yet the Legislature left intact the right of appeal to a Regional Review Panel under § 4476. Courts are clear that statutes must be construed to preserve substantive rights and avoid absurd results. See *In re Town Highway No. 20*, 2012 VT 17, 16, 191 Vt. 231 (statutes should be read to avoid rendering rights meaningless). See also *State v. Pierce*, 173 Vt. 151, 154 (2001) (statutes should be construed to avoid absurd or unjust results).


3. Remedies. To resolve this statutory gap and preserve petitioners' right of review, the Court should: (a) order ACCD to designate an impartial appointing authority outside its own agency role, such as the Governor's office; (b) appoint a neutral judicial master to convene the panel; or (c) adopt an alternative process consistent with § 4476 that ensures impartiality, regional balance, and fairness in selection.

4. Courtesy Notice. Although Montpelier is not a respondent in this Mandamus action, Petitioner has provided the City Clerk a courtesy copy of this filing to ensure the City is on notice of the pending appeal of its City Plan.

WHEREFORE, Petitioner respectfully requests that the Court issue an order directing that a Regional Review Panel be convened in accordance with 24 V.S.A. § 4476, with appointment of its members made by a neutral authority to preserve the rights guaranteed by statute.

Respectfully submitted this 14th day of September, 2025.

THE PLAINTIFF

A handwritten signature in black ink, appearing to read "Stephen Whitaker", is centered on the page. The signature is written in a cursive, flowing style.

Stephen Whitaker, Pro Se
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