

**Planning Commission Second Public Hearing for
Calais Land Use and Development Regulations Amendments
May 2, 2023, Calais Town Hall**

Present: Planning Commission members Jan Ohlsson, John McCullough, Gary Root, Melanie Kehne; Donna Fitch, notetaker; Anne Toolan, Anne Winchester, Jamie Moorby, Gabrielle Malina, Willa Farrell, Teegan Dykeman-Brown, Rose Pelchuck, Larry Bush, Marge Sweeney, Mary Alice Proffitt.

Planning Commission (PC) Chair Jan Ohlsson called the meeting to order at 7:10, explaining this is the PC's second public hearing regarding updates to the Calais Land Use and Development Regulations (zoning) and will cover the changes made since the first public hearing on September 20, 2022.

Documents available at the meeting, on the town web site and referenced during the hearing:

- "Town of Calais, VT Required Report, Land Use & Development Regulations Amendments 2022-2023." Lists major changes and required statutory changes.
- "Warning: Notice of Second Public Hearing" with index of changes. Notes basis for the amendments: improve water quality and flood resiliency; address statutory changes; correct and improve language.

The following proposed updates were presented:

Water Quality Shoreland Development

Jan explained that the proposed changes are an attempt to control how land is developed around the edges of lakes that are 10 acres or larger and to conform to the State Shoreland Protection Act. For example, current shoreland zoning has a vegetative buffer of 50 feet with no best management practices for planting and no standards regarding mowing. The new standard would be a 100-foot buffer.

Shoreland Overlay District (SHROD) Table 2.4. The maximum cleared area allowed would be 40% of the amount of land in SHROD Upland Zone; Development Review Board (DRB) review of nonconforming structures is articulated; bank stabilization is addressed; specific uses will not be allowed in Upland area nor with DRB review.

Existing shoreland zoning applies to six Calais ponds greater than 20 acres. The proposed SHROD adds ponds greater than 10 acres and in total would include Curtis, #10, Nelson, Sabin, Bliss, North Montpelier, Little Mud, Adamant, Watson, Sodom. The proposed dimensions are a 100' deep vegetative buffer and another 150' deep Upland Zone with limits on types of development and uses. The total SHROD depth is 250 feet. One exception is at the east side of Curtis Pond which has a 700' Upland Zone for an 800' SHROD depth.

SHROD has a three-acre minimum parcel size.

It was noted that PC members met with residents in North Calais and Adamant villages to receive input regarding zoning changes affecting land use. Adamant agreed to change some of

its zoned village district to rural residential district, reducing the size of the zoned village district. North Calais residents wanted to expand its zoned village district as part of its application for village center designation that is required when applying for certain grants.

There were questions about the Curtis Pond buffer. Marge Sweeney expressed concern about the process and the possible influence of just a few residents on zoning updates. The PC explained they have been working on these changes for four years and, in fact, the Curtis Pond buffer discussion goes back to 2016. The PC meets twice a month, all meetings are warned and residents are welcome to attend. Larry Bush pointed out that members of Conservation Commission and Lakes and Streams group have attended in past years to give input on SHROD.

John McCullough pointed out that the Upland buffer doesn't mean you can't build an accessory dwelling, for example. It is not a no-build zone, he said.

Gary Root noted that the PC reviewed every parcel, lot by lot, around lakes and rivers in order to write regulations that protect lakes other than Curtis and to determine the impact on specific landowners' property. Due to the density around Curtis, he said, these proposals make sense.

The PC provided maps in a Power Point presentation to show the changes to overlay districts and buffers around the lakes and ponds.

In addition, John pointed out that any work in the water must receive a permit from the State. The town has no control.

River Corridor Overlay District

River corridors are specifically called out by the Department of Environmental Conservation. Where streams are part of a River Corridor Overlay, they have 50' buffers.

River corridors were identified by the State as an area for heavy erosion, and new rules came about after Tropical Storm Irene. (Residents building in this district are encouraged to use State requirements even if development is under one acre.) A new River Corridor Overlay District has been added, and the Flood Hazard Overlay that accompanies it was rewritten. The new overlay district conforms to the latest Calais Hazard Mitigation Plan as approved by the Calais Selectboard in 2022 and increases the amount of potential assistance from the Emergency Relief and Assistance Fund. No new development will be allowed in the River Corridor District. Jan pointed out that all new Calais regulations to Flood Hazard and River Corridor have been approved by Ned Swanberg, Agency of Natural Resources, and that river corridors are already protected by a 50-foot stream buffer in current zoning regulations.

Section 3.15 was written to better control erosion and storm water management. Any construction in any district that creates a land disturbance of more than one acre requires a State permit. Calais regulations are asking property owners creating new development, even under 1 acre, to follow the State's guidance to control erosion and manage storm water.

Historic District Design Advisory Board Process

Historic District Section 5.5.C has been rewritten. In the Historic District, proposals for any development or aesthetic changes are reviewed by the Design Advisory Board (DAB). The update states that, upon DAB approval, the Zoning Administrator may issue a permit. Proposals that require a Conditional Use review in the underlying district will have that part of the proposal reviewed by the Development Review Board (DRB) for Conditional Use approval. If the DAB does not approve a proposal, the applicant may appeal to the DRB.

Miscellaneous Tweaks

Landowners initiating a project that does not need a zoning permit, including agricultural structures, will register the project with the town through the Zoning Administrator.

Waivers are removed from consideration as a substitute for variances.

There is a new chapter on definitions.

The maximum slope throughout all the town is proposed at 15%.

Public comment:

In relation to general development potential, Jan pointed out that 50% of land in Calais is in current use and 11% is wetland.

Larry Bush, vice chair of the Conservation Commission and member of the Lakes and Streams group, reported that both groups have been involved with the PC for the past four years in relation to shoreland changes, and both groups support the updates. He submitted letters of support from both groups (attached for the record) and thanked the PC for their many hours of tedious work. Larry acknowledged the "heavy lifting" of Noreen Bryan, a member of Lakes & Streams. Jan thanked both groups for their input.

Gary Root acknowledged that the shoreland updates are a perfect balance between protecting valuable resources and not trampling on property owner rights.

Stephanie Kaplan emailed comments which Jan read for the record and which are attached. She wrote that instead of an overlay, there should continue to be a shoreland district; the shoreland district should extend 500 ft from the mean water level instead of the proposed 250 ft. except for the 800 ft. proposed boundary for the east side of Curtis Pond; mowing to water's edge should be phased out; no slopes steeper than 10% should be allowed close to lakes, ponds, or streams

The meeting adjourned at 8:20 pm. The next regular meeting of the PC will be Tuesday, June 6.

Respectfully submitted,

Donna Fitch, Notetaker

**MESSAGE TO THE PLANNING COMMISSION FOR MAY 2ND, 2023, PUBLIC
HEARING ON ZONING REVISIONS**

Subj: Testimony from the Calais Lakes and Streams Committee (CLSC) for Planning Commission's Public Hearing on 2 May 2023

Dear Chairperson Ohlsson and Members of the Calais Planning Commission:

This message is sent in support of the Planning Commission's proposed revisions to the Calais Zoning Regulations regarding standards for lakes and ponds. Members of the CLSC greatly appreciate the careful consideration and attention to detail that has resulted in the latest version of the Shoreland Overlay District (SHROD) and other portions of the regulations that are linked to the SHROD. We believe that the proposed SHROD provides the essential regulations needed to preserve the lakes and ponds of Calais for future generations. Your willingness to engage with CLSC members and carefully consider our ideas was so generous and testifies to the value that you place in working with citizens as part of the process to achieve a high-quality product.

With much appreciation,

Colleen Bloom

Noreen Bryan

Larry Bush

David Ellenbogen

Galen Whittaker

**Calais Conservation Commission Comments on the Planning
Commission's Proposed Amendments to the Calais Land Use &
Development Regulations**

Submitted at the Public Hearing on May 2, 2023

The Calais Conservation Commission supports the Planning Commission's overall revisions to the shoreland zoning regulations and urges their approval. The proposed regulations will be a realistic and much-needed enhancement of protection of lakes, ponds, and streams in Calais. Regarding several items, however, the Conservation Commission reserves the right as a body and as individuals to comment on the draft provisions, including maximum slope and lawn mowing, which are potentially worthy of further refinement.

Mark Brown
Larry Bush
Tracy Coolidge
Julie Hand
Stephanie Kaplan
Neal Maker

Dear Planning Commission,

I am submitting brief written comments on the Shoreland Zoning revisions that you have proposed. Most of these comments have been previously submitted to you by the Calais Conservation Commission and you declined to make the suggested modifications. Thus I am not optimistic that my comments here will have any effect, but I'm submitting them for the record. I apologize for the inconsistent formatting.

Shoreland District vs Overlay

Instead of an overlay, there should continue to be a Shoreland District. The disadvantages of an overlay clearly outweigh any advantages. Having a separate Shoreland district underlines the importance of the shoreland and its specific standards designed to protect the water quality and other values of our lakes and ponds. It also makes the requirements for developing around the shoreline clear and minimizes confusion that often results from an overlay when essentially two different sets of district standards apply.

Shoreland District extent

The Shoreland District should extend 500 feet from the mean water level instead of the proposed 250 feet, except that the 800 foot district boundary proposed by the Planning Commission for the east side of Curtis Pond should be retained.

According to the previously submitted chart prepared by the Vermont Department of Environmental Conservation, a 500' vegetated buffer around lakes provides maximum protection for water quality (as well as other values).

See Table 2.4 (C). See also "Widths of Lakeshore Vegetation for Lake Protection," Vermont Agency of Natural Resources ~ Lakes & Ponds Section ~ Lake Wise Program,

https://dec.vermont.gov/sites/dec/files/wsm/lakes/Lakewise/docs/lp_shorewidth.pdf

Mowing

I and the Conservation Commission and the Lakes & Streams Committee have pointed out repeatedly - and cited experts' support - that mowed grass is a poor method of capturing silt and other often harmful runoff, and that if Calais is serious about protecting

water quality, mowing down to the water's edge of streams as well as lakes and ponds should be phased out.

In Section K of the Shoreland standards, "lawns within the shoreland Vegetative Buffer Zone legally in existence on January 3, 2005 and which are mowed at least once every 2 years may be maintained if no new development takes place...."

— What does "legally in existence" mean with respect to mowing lawns?

— How will it be determined how often landowners are or are not mowing? How will this be enforced?

There is no constitutional right to mow your lawn to the water's edge. The Planning Commission has the full authority to regulate this kind of mowing in the buffer zones of lakes and ponds and streams in the public interest. To better protect the water quality of our lakes, streams, and ponds, this should be done.

There is a huge amount of information about and support for the types of plantings of native vegetation that can be planted in the buffer zones of lakes and ponds and streams to best protect the water quality. Landowners who stop mowing should be provided with assistance in planting the appropriate types of native vegetation.

Slopes

It is very difficult to control erosion and runoff on slopes as steep as 10%. No slopes steeper than 10% should be allowed close to lakes, ponds, or streams. It is not clear what the purpose is of allowing construction on such steep slopes close to water bodies that we are trying to protect.

Stephanie Kaplan