

## PLANNING & DEVELOPMENT BOARD MEETING MINUTES

April 4, 2022



Ruthanne Fuller  
Mayor

Barney Heath  
Director  
Planning & Development

Cat Kemmett, Planning  
Associate

### Members

Peter Doeringer, Chair  
Kelley Brown, Member  
Jennifer Molinsky, Member  
Kevin McCormick, Member  
Sudha Maheshwari, Member  
Chris Steele, Member  
Barney Heath, Planning  
Director *ex officio*  
Lee Breckenridge, Alternate

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### Members present:

Peter Doeringer, Chair  
Kelley Brown, Vice-Chair  
Jennifer Molinsky, Member  
Kevin McCormick, Member  
Sudha Maheshwari, Member  
Lee Breckenridge, Alternate

### Staff present:

Cat Kemmett, Planning Associate

Meeting held virtually by Zoom Meeting

### 1. Chapter 91 Waterways License Notification Requirement

#### Newton-Weston Pedestrian Bridge Replacement over Charles River

Mr. Brown, serving as acting Chair for the evening, opened the meeting at 7:00 pm.

Gerald Autler, Director of Trails and Greenways at the Massachusetts Department of Conservation and Recreation (DCR) gave a presentation about the project. He explained that MassDOT and the DCR have identified this project as a key element in improving the safety, accessibility, and connectivity of the Upper Charles River Reservation and the Charles River Greenway. The existing bridge structure is not safe, and it shows numerous signs of deterioration including rotten and collapsed sections of timber decking, rotten or damaged segments of timber rail, and fracturing in the abutments and piers. The existing bridge has been closed to the public since 2016 due to safety concerns. DCR will be the long-term owners and caretakers of the bridge once it is finished. Mr. Autler said that they expect to receive federal funds to aid in the construction costs, and they also need to finalize ownership rights to the property.

The proposed replacement bridge will consist of a two span prefabricated steel truss supported by two cement concrete abutments and one pier. The total length of the proposed bridge is 195 feet. The existing piers will be removed 12 inches below the mudline to ensure that they do not create a hazard to navigation. The installation of the new piers and removal of the existing piers will be conducted from a barge in the Charles River. None of the proposed work will significantly restrict access to the Charles River.

In accordance with the requirements of 310 CMR 9.31(1-2), the project complies with all of the requirements for license issuance. In order for the project team to move forward, they are asking the Board for a signature on form H of the Chapter

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91 application, certifying that the Board has received notice of the project and are aware of the Chapter 91 license under review.

Mr. McCormick asked for clarification on whether the Chapter 91 application would cover the whole construction of a new bridge, and Mr. Autler confirmed that it does cover the whole project, including the demolition of the existing bridge and construction of the replacement structure.

Mr. Brown asked what the impact of not getting the expected federal funds would be for the project. Mr. Autler said that if they don't get that funding, hopefully they could delay construction into the next fiscal year, but they are hoping it won't come to that.

### Crystal Lake-Louise Levingston Cove Improvements

Luis Perez Demorizi, Director of Parks + Open Space gave a presentation about the project. Levingston Cove is one of the 4 public open space parcels set along the shore of Crystal Lake in Newton. Levingston Cove is roughly one-half of an acre at the intersections of Lake Avenue and Lakewood and Berwick Roads in Newton Highlands.

The existing grassy slope and its mostly inaccessible shoreline pathway have eroded severely. The park provides opportunities for sitting and viewing, fishing, nature study, sunbathing, picnicking, and walking. Located further south along the shore is Crystal Lake Park, Newton's only supervised, natural area for public swimming. Crystal Lake currently suffers from extreme stress and overuse within its watershed. Expanded use of the lake for swimming, demand for fishing and boating, increased on-street parking, the encroachment of invasive plants on the natural habitat, and cyanobacteria algal blooms in the water are the primary stressors on the health of the pond.

The current improvements plan will enhance accessibility, slow and redirect stormwater surface run-off, protect and enhance wildlife habitat, overall recreational value and ensure public safety. The conceptual design and current plan have been conducted and produced by Weston & Sampson Inc. and approved by the Newton Parks and Recreation Commission along with many other stakeholders, including members of the public. Public meetings were held to request input from the public. Public comment has been considered and incorporated into the preferred plan where feasible.

The proposed project complies with all requirements for license issuance. The project team is seeking a signature from the Board on form H of the Chapter 91 application, certifying that the Board has received notice of the project and are aware of the Chapter 91 license under review.

Ms. Breckenridge asked if there had been safety or design concerns shared by members of the public about the proposed project, or if it limits public access to the water. Mr. Demorizi said that though the sentiment from the public has been mostly quite positive, some residents have expressed concern about the planned platform over the water. He explained that the city does have a goal to make the park more accessible and curtail erosion. In terms of public access, this will create more access to the park. There was an appeal filed on the Notice of Intent, but he believes that it will be overturned. MassDEP is not concerned about the covering over the water, and they see it as a benefit for wildlife to find refuge under.

Ms. Molinsky added that the CPC has reviewed the project and, in her opinion, based on that review, the public access improvements and erosion control are significant benefits to this plan.

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Chair Doeringer asked about the extent of water access, and whether these improvements would allow for swimming at the cove. Mr. Demorizi said that the site is designed for things like fishing and dipping a toe in the water, with the expectation that a site further down would be the swimming spot.

Mr. Brown asked what the total estimated cost of the project was. Mr. Demorizi said it is \$1.4 million, with the platform comprising a significant amount of that cost.

### **2. Zoning Matters Discussion**

#### MBTA Communities

Ms. Kemmett said that staff are working with Utile to do an analysis of unit capacity. Minimum unit capacity is the number of housing units that must be zoned for as of right according to the rules laid out by the MBTA communities draft guidance language. The draft guidelines set specific percentages of the total housing units that can be developed as of right within the multifamily district, which is calculated based on the category of transit service.

Ms. Molinsky asked for clarification on whether staff expect to adopt zoning that will be compliant with the requirements set out by the MBTA Communities rules. Ms. Kemmett replied that though there still needs to be further staff analysis and discussion with the Board and with ZAP, staff are working under the assumption that there is interest and the intention to develop and adopt zoning amendments that can bring the city into compliance. Mr. Brown noted that there is enough ambiguity in DHCD's language that it has caused confusion about whether or not this is an optional requirement, but hopefully the state will clarify that. Mr. McCormick added that DHCD has further refined their guidance and that point is now clearer.

Ms. Kemmett said that as staff plan and prepare for the next phase of engagement for the Village Center work, engagement for the MBTA communities requirements will be incorporated as well as part of that. Staff believe there is some overlap in terms of what changes we can facilitate via zoning to create vibrant village centers and zoning amendments that can bring Newton into compliance with DHCD's guidelines for multifamily zoning.

Mr. McCormick asked whether staff intended to merge the MBTA work with the Village Center zoning work. Ms. Kemmett said that in terms of engagement, staff think it makes sense to highlight how the proposed development scenarios would or would not help bring us into compliance with DHCD's requirements. However, it is probably still too soon to tell whether we can expect the Village Center zoning changes alone to bring us into compliance- it is very possible they could, but it is not guaranteed.

#### Village Centers

Staff and the consultants from Utile shared an analysis of parcels, showing what could be built by-right or by Special Permit if they were rezoned to MU4, BU3, and BU2 depending on their location. The analysis included information about financial feasibility of each project, and the resulting urban form. This work is leading towards the refinement of what zoning regulations can be adjusted to facilitate desirable and financially feasible projects.

Chair Doeringer praised Utile's work on economic analysis, and said that he had requested further analysis from them looking at the development scenarios under different interest rates and for a better sense of the entire cost structure, and how these hypothetical scenarios may hold up under projections into the future. Further, some of the projects that are in fact being built now are deemed not feasible under Utile's analysis, which seems flawed and requires some explanation. Ms. Kemmett said that she can follow up with Utile and their team to get some answers about these remaining questions.

Sustainability measures

- BERDO (Building Emissions Reduction and Disclosure)  
Ann Berwick and Bill Ferguson from the sustainability and climate team are working on reaching out to large property owners regarding a BERDO plan similar to what Boston has in place. They are planning on holding listening sessions within the next few months. The ordinance text is not yet finalized, they plan to do engagement over the next few months into the summer. Ms. Kemmett said that the sustainability and climate team have the lead on this endeavor, but the Long Range team has been assisting with some data analysis and community engagement for the item.
- Embodied Carbon  
The Long Range Planning team has also been assisting Liora Silkes, Energy Coach, with a citizen-led effort to put monitoring regulation in place for embodied carbon. Embodied carbon is the carbon dioxide emissions associated with materials and construction processes throughout the whole lifecycle of a building. Ms. Kemmett noted that monitoring and regulating embodied carbon is challenging for a few reasons. Embodied carbon is difficult to measure and requires a lot of data, and some of the associated assessments require specialized knowledge. Further, actually reducing embodied emissions in a building can be tricky, especially if the building is being evaluated after it is in the design stage.

Mr. Brown asked for clarification on whether this item, or BERDO, would be zoning measures, noting that there are restrictions to what zoning can regulate in instances where they could potentially conflict with the state building codes. Ms. Kemmett said that they would, at least in some capacity. In all likelihood in their final form, these will be regulations separate and distinct from the Zoning Ordinance, but the Zoning Ordinance will at least refer to those regulations.

Ms. Breckenridge noted that it might be confusing to refer to these items ‘sustainability measures’ since they are fairly limited in scope. The city has been taking a piecemeal approach to addressing sustainability. Mr. Brown added that there are other cities, like Cambridge, that do have more comprehensive ways of analyzing the sustainability and climate impacts of the built environment. Ms. Molinsky added that in the past planning staff tried to incorporate green building standards into the zoning, but there was an issue with expertise and having staff that are able to monitor and assess for compliance.

Technical amendments

Ms. Kemmett said that staff will soon be introducing a new item looking at accessory dwelling units (ADUs.) This will include an update on how the changes made to the ordinance in 2017 have impacted the numbers of ADUs built across the city, and some thoughts from staff about several targeted updates that might help facilitate more ADU construction.

Last Mile Delivery

Chair Doeringer shared some updates and thoughts from the previous ZAP meeting. He observed that ZAP remains very split on which option would be best. He believes that if people are leaning towards allowing microfulfillment centers in village centers but only in out of the way spaces, those parameters need to be clearer.

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How will building on corners be impacted? Also, the logistics for how loading docks are handled should be discussed.

Ms. Breckenridge said that for her, many questions still remain, and wondered whether there is enough data on the table here to make an informed decision that evaluates all of the moving parts involved here and result in rules that are understandable and enforceable and accomplish our goals. A main theme in what planning staff discussed was how to ensure there is an active storefront if a microfulfillment center is allowed, but there are a lot of issues involved here that could use more analysis, like the potential for increased traffic.

Ms. Molinsky said that if she had to pick an option now, she would pick alternative 1a. She thinks it strikes a fair balance, and though it would be good to settle on a by-right option, this is an instance where the higher level of scrutiny inherent in the special permit process could be useful. She said that what she would find helpful is a better sense of the retail landscape. In an ideal world she would not want this use in a place of prominence in a village center, she would prefer more active, vibrant spaces. But retail uses face obstacles these days that do not lend themselves to easy fixes, and possibly through working with the EDC or other avenues the Board can better understand how to encourage uses that will bring vitality to village centers.

Ms. Maheshwari asked if there has been an in-depth analysis into the impacts of this use. Chair Doeringer shared some insights from the working group, where they discussed the rapid proliferation of these centers in other cities and their popularity with venture capital firms. Based on the experience of other cities, a place like Newton could be a very enticing prospect for investors, and these microfulfillment centers could pose a strong competition to existing small retailers. He seconded Ms. Molinsky's sentiment that the challenges facing our village centers are not well understood, which makes decisions like these difficult.

Chair Doeringer said that ISD has determined that this use falls under retail operations, even when it is an operation that is almost entirely delivery. The working group considered a transparency requirement but came to the conclusion that that might be difficult to monitor and enforce.

Board members discussed the likelihood of these centers proliferating in Newton and wondered whether the high cost of retail space would dissuade investors, or whether the lack of density that exists in larger cities would make this use undesirable for bike couriers.

Mr. McCormick noted that microfulfillment centers already exist in this area and not just in Boston. Though he would prefer not to see these in village centers, if he had to pick, he would go with option 1a.

Ms. Breckenridge said that the costs of the special permit process do not just fall on the applicant- they also take up a lot of staff time and the time of city council members. In her view, it would be better to come to a better understanding of what we want to control, create a strong and enforceable set of rules to regulate it, and put those in place to allow them by right subject to the agreed upon rules.

Ms. Molinsky said that upon reflecting on the Board's conversation and the remaining concerns about traffic and village center vitality, she is leaning against allowing this use in village centers. This use would be preferable to a perpetually empty storefront, but there are still so many unanswered questions about retail in village centers that she does not feel qualified to say whether this option would result in a net benefit for a neighborhood. She would love to know what it would take to get an active use and not just settle for easing the way for a fairly undesirable use like this one.

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Mr. Brown concurred with some of the sentiments shared by Ms. Molinsky, and said that if this is a use that has so many unanswered questions and is seen as undesirable to many, then we can put regulations in place to make sure that their negative impacts are adequately monitored, but the city should not have to bend over backwards to make it easy for these centers to locate in village centers, or to allow them at all there.

Board members then discussed some of the challenges inherent in their role in assessing these items and making recommendations to the city council. It is not always clear when a vote will be taken at ZAP, which means that the Board is often left with little to no time to discuss things amongst themselves after a public hearing and before taking a vote.

### **3. Minutes**

Upon a motion by Chair Doeringer and approved 5-0-1 with Ms. Maheshwari abstaining, the minutes from March 7 were approved.

### **4. Adjournment**

Upon a motion by Ms. Molinsky and unanimously approved, the meeting was adjourned at 9:25 pm.