

BANKER & TRADESMAN

THE
WARREN
GROUP
Since 1872
Real Estate & Financial Information

THE FINANCIAL SERVICES AND REAL ESTATE WEEKLY FOR MASSACHUSETTS

ULI PERSPECTIVES

Boston's Wetlands Ordinance Advances Climate Planning

New Climate Change Regulations Impose Costs, But So Will Changing Climate

**BY MATTHEW KIEFER,
CHRISTIAN REGNIER AND
CONNOR O'DWYER**

SPECIAL TO BANKER & TRADESMAN



Matthew Kiefer



Christian Regnier



Connor O'Dwyer

In his 2020 State of the City address, Boston Mayor Martin J. Walsh proclaimed Boston “the most climate-friendly city in the United States.” As a coastal city uniquely vulnerable to sea level rise, Boston has embarked on an ambitious campaign to integrate climate resilience into city planning and policy. Although the list of climate change policy efforts is long, we focus here on efforts by the city to integrate climate change planning into the permitting and development process.

The Boston City Council enacted an ordinance in December that protects wetland resource areas beyond current state and federal regulations. Current wetlands protections focus on impacts to existing wetland and river resources. Most significantly, the new Boston ordinance focuses on anticipated future climate change impacts, most obviously sea level rise and increased flooding risks.

The new ordinance creates new flood resilience zones, subject to regulation based on predictions of sea level rise, and directs project applicants and the city of Boston to consider future climate change impacts associated with projects. The ordinance creates other new protected areas, not all of which will be on the waterfront. The true effects of the ordinance on development and the environment will only become clear as implementing regulations emerge to clarify the ordinance.

Ordinance Not Boston's First Step

This new ordinance is only the latest element in the city's climate planning. The mayor's office published the Climate Ready Boston report in 2016, generated by an advisory group of scientists and experts, which predicts increasing temperatures, more powerful storms and flooding from sea level rise, and outlines climate change planning and preparedness strategies to address them.

The Boston Planning & Development Agency, responsible for regulating development in the city, has taken the lead on several planning and regulatory measures addressing climate change.

The BPDA administers green building standards in the Boston zoning code. Article 37 requires developers to utilize LEED standards to design more sustainable and efficient buildings. The city's objective is to encourage developers to build projects that are certifiable to the highest LEED standard possible to reduce environmental impacts, particularly with respect to energy usage and increased greenhouse gases.

The BPDA's design review process encourages buildings to be designed to withstand potential

climate change impacts by, for example, placing utilities and critical systems above ground level. The BPDA updated its set of Climate Resiliency Guidelines and an accompanying checklist in 2017 with the stated goal “to consider and analyze the impacts of future climate conditions and to incorporate measures to avoid, eliminate, or mitigate greenhouse gas emissions and impacts related to climate change in project planning, design and construction.” All projects subject to the Article 80 reviews for large projects, planned development areas and institutional master plans are required to complete the checklist.

Carbon Free Boston is the city's plan to become carbon neutral by the year 2050. To accomplish this goal, developers are asked in the Article 80 Large Project Review process to consider the carbon footprint of new buildings and design a plan to make those buildings carbon neutral.

In project reviews, the BPDA and the Boston Transportation Department encourage or require infrastructure for zero-emission vehicles, bikes, pedestrians and public transportation to reduce greenhouse gas emissions.

Development Must Change with Climate

The BPDA also maintains a map that projects future flooding beyond existing flood hazard areas delineated in Federal Emergency Management Agency flood maps. The BPDA updated its Coastal Flood Resiliency Design Guidelines in September 2019 to “serve as a reference for residents, business owners and developers to translate flood resiliency strategies into best practices.”

Continued on Page 2

To further integrate flood preparation into zoning, the BPDA is reviewing a proposed coastal flood resilience zoning overlay district, to be utilized in conjunction with the map and guidelines.

As the climate changes, so too do the familiar development processes in Boston. Climate change planning and preparedness policies and regulations, unique in addressing future harms rather than preventing current ones, are here to stay.

Although these policy and regulatory changes

will impose costs on developers, companies and nonprofit institutions as they develop new facilities – and will require development professionals to learn how to incorporate them into development approvals – their adoption is based on the belief that the cost of not dealing with climate change will be far greater.

The goals and timelines of these policies are based on future projections. These projections may change for better or worse, depending upon the effectiveness of climate policy initiatives not just in Boston, but around the world. There is

no doubt that the recent wetlands ordinance and other city environmental policies will continue to evolve as more becomes known about the interactions between development and climate change. ◀

Matthew Kiefer is a director at the law firm of Goulston & Storrs and a member of the ULI Boston/New England Advisory Board. **Christian Regnier** is a director at Goulston & Storrs. **Connor O'Dwyer** is a real estate associate at Goulston & Storrs.