Right of Way Challenges and Opportunities: “When Your Front Porch is a Bridge”

Todd Pelletier, P.E.
Property Office Director

2017 ROWUOAC Conference
Location and Background

City of Gardiner

- Bedroom community 7 miles south of Augusta.
- Approximately 8000 people.
- 3 regional commuter Routes (Routes 201, 126, and 24) go through the City Center.
- Four Bridges serve traffic flow in the downtown area
  - One across Kennebec River to Randolph
  - Three bridges cross Cobbosseecontee Stream in the Downtown

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Three Downtown Bridges
“100 Years ain’t too bad but......

- Two of the three bridges are in critical condition needing replacement
  - Bridge Street Bridge built in 1918
  - Maine Avenue Bridge built in 1933
Public Concern

• Business Friendly State
  • Temporary impacts to businesses
  • Long term loss of clientele

• Traffic Impacts During Construction
  • Local
  • Regionally

• Quality of Life During Construction
  • Noise
  • Contractor Presence
Enhanced Outreach

• Monthly Business Group Meeting
  • Project Manager has attended since Summer 2015
    • Provide Updates
    • Seek input

• Bridge Advisory Committee
  • Local Government Officials
  • Business Members
  • Residents
  • Urban Planner
  • Economic Development
Maine Avenue Bridge

- 2 Lanes w/sidewalks
- Full replacement needed
- Closure required
  - Not enough real estate for contractor and temp bridge
  - Stage construction would severely impact traffic flow and business access
- Currently scheduled for Fall 2018
Bridge Street Bridge

- 2 lanes with parking on both sides and sidewalk on one
- Water, sewer, gas and fiber optic all attached to bridge
- Spans Cobbosseecontee Stream (prone to flooding) and local street
- Full replacement needed
- 3 businesses with access off of bridge (2 of those: their main access!)
- Existing R/W is at the face of the buildings
- Tentatively scheduled for Fall 2019
Legal Rights vs. Moral Dilemma

Legally

• Under Maine Law our opinion is:
  • Access to the bridge is not guaranteed: If the bridge fell down tomorrow, the loss of access to the bridge would be an “act of god”
  • Any loss of access to bridge during construction is not legally compensable

Morally/Politically

• Remember “Business Friendly State”? 
• Almost literally under the shadow of the State House
• Property owners left holding the bag
“A-OK” Fuel Company

- Former service station currently is heating oil delivery with minimal auto sales
- Front yard actually a raised concrete deck attached to bridge
- No option to keep in operation during construction (closure, stage, or temporary bridge)
- Owners and business group agree that acquisition and relocation outside of the downtown is the best
- Plan to acquire once NEPA has been completed (some historic qualities?!)
“Route 201” Diner

- Original Worchester Diner car #790
- Fixture of Downtown Gardiner since 1946 with many loyal clientele
- Owners and business group express strong desire for it to remain in the downtown.
- Owners are open to potential relocation if need be.
- Relocation last resort based on cost/risk
- Can remain in place and operational during construction
- Interestingly not considered historic due to modifications
“ACME” Pizza

• Main entrance off bridge sidewalk
• 2nd entrance (non-ADA compliant) access to street below
• Utilities supplied directly from bridge deck
• Loyal patrons
• Owners and business group express strong desire for it to remain in the downtown.
• Relatively new owners
• Property not historic or 4(f)
Challenges For Businesses

- Maine Law prohibits paying for:
  - Business or income opportunity loss
  - Business interruption
  - Inferiority of new location

- MaineDOT can determine market rental value for temporary occupancy however cannot pay lost wages to employees
  - “ACME” Pizza: 8-9 fulltime employees plus 2 owner operators
  - “Route 201” Diner: 6-7 fulltime employees
Major Questions

• Can we keep establishments in business during construction?
  • Maintain access from bridge?
    • “Route 201” Diner: Although not ideal....YES
    • “ACME” Pizza: NO
  • Provide temporary scaffolding or ADA approved side entrance to “ACME” Pizza?
    • Costly (engineered structure)
    • In the way of staging and construction
  • Pay for “ACME” Pizza to temporarily move?
    • Can only pay once: Initial or final move. Not both
So now what?

• “Route 1” Diner can stay in Operation.

• “ACME” Pizza will have to be acquired
  • Owners amenable with concept and there are potential locations in the downtown to move to
  • Would prefer sooner than later so they “can get on with their lives”
  • NEPA not anticipated until Fall of 2017

• Business group and Bridge Committee in favor of plan
Best Overall Solution

• Bridge reconstruction on existing location with full closure
• Access provided to “Route 201” Diner during construction
• Move ahead with state funded acquisition and relocation of “ACME” Pizza
• Allows for lower cost bridge:
  • Shorter construction timeline
  • Adequate and on-site staging area for contractor
  • Parking on one side instead of both
Strategy and Execution

• Owners approach previous owner about restructuring Private Mortgage.
  • Success! Previous owner releases private mortgage ties to subject property

• MaineDOT offers just compensation based on appraisal
  • Through negotiation an additional amount is agreed to for administrative settlement based on potential deficiencies in our appraisal.

• Owner elect to take fixed payment in lieu of moving expenses.
Done Deal

• MaineDOT acquires “ACME” Pizza in January 2017
  • Settlement agreement allows them to remain on the premises for 6 months at no cost
  • Option to remain up to an additional 6 months at a calculated market rental
• “ACME” Pizza currently looking at potential new location(s) and weighing option to rent or buy. They plan to be relocated by Fall 2017
Next Steps

• “A-OK Fuel Company acquisition and relocation to commence Fall 2017 once NEPA has been completed. Building and elevated slab demolition to be included in

• Once vacated, “ACME Pizza” building to be demolished as part of project as well.

• Bridge Program will work on special provisions in contract to preserve access to “Route 201” Diner during construction.
QUESTIONS

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