



WAREHAM REDEVELOPMENT AUTHORITY

MEETING MINUTES

Thursday August 10, 2023
9am, Room 27, Town Hall
54 Marion Road, Wareham, MA 02571

MEETING CALLED TO ORDER AT 9:08 AM by Chair Butler. Mr. Butler noted that Ms. Annie Hayes was video recording the meeting for WCTV Community Television.

I. Members present: Dan Butler, Judith Whiteside, Ken Buckland,

Members absent: Ron Besse
Derek Sullivan

Also present: Jared Fredrickson, WRA Intern

Also several members of the public including: Anne Hayes, Linda Scharf,
Brenda Eckstrom, Jim Munise, Amanda Frost, Hayden Hutchinson

II. RESIDENT COMMENTS:

Ms. Frost spoke about issues with the Littleton Drive development. Mr. Munise inquired regarding the status of CPC funds committed to the project. Mr. Butler recognized WRA members Buckland and Whiteside who confirmed committed CPC funds had not been released yet for the Littleton project.

Ms. Hayes commented she thought the Littleton Drive development was supposed to include solar panels.

At conclusion of Resident Comments, Mr. Butler stated he would like an update on the Littleton project, would schedule that for the September 14, 2023 WRA meeting, and would invite a Pennrose LLC representative and a spokesperson for neighbors abutting the Littleton project property to address the WRA.

III. AUTHORITY BUSINESS

1. Update on WRA Internship program. Jared Fredrickson, resident and student at UMASS Boston, was introduced as an intern for WRA.

A TRUE COPY ATTEST:

Debra A. Thomas

2. Mr. Fredrickson gave a short presentation titled "Merchant's Way Air Rights," a copy of which is on file. There are several hurdles to overcome before 'air rights' can be exercised. The Zoning Board of Appeals and Planning Boards must be made aware of proposal, there would have to be public hearings, there would have to be an RFP for the use of Town property, the Select Board would have to review, and Town Meeting must approve a change to Town By-laws. The 'air rights' that might be addressed over the railroad tracks behind Merchant's Way must also go through a lengthy permitting process as the tracks are under the DOT.
3. Eversource utility pole easement. **MOTION** made by Ms. Whiteside, seconded by Mr. Buckland to authorize the Chair of WRA to execute documents regarding utility pole easement for Littleton Drive.
Roll Call Vote : Buckland – yes; Whiteside – yes; Butler- yes.
Vote: 3-0-0 (Unanimous)
4. Mr. Buckland provided a summary of the changes to the Wareham Village Urban Renewal Plan, as well as the next steps to be taken (documents attached) for Authority members to review changes and the approval timeline. Members stated the need to have public hearing to involve the public. Members also encouraged continued meetings for the CAG group, to ensure citizen input, possibly at an open-to-the public workshop.

MOTION made by Ms. Whiteside, seconded by Mr. Buckland, to send a draft EENF to MEPA now, as recommended.

Roll call vote: Whiteside - yes; Buckland - yes; Butler - yes.

Vote 3-0-0 (Unanimous). A copy of the draft will also be forwarded to the Planning Board, marked 'predecisional draft.'

IV. REPORT FROM THE DIRECTOR OF PLANNING

Mr. Buckland reported he would send a copy of the Planning Board's 'Design Guidelines' to the WRA.

V. MEMBER COMMENTS/NEW INITIATIVES

- VI. CORRESPONDENCE** – Mr. Buckland reported on correspondence from Mr. Taylor regarding Littleton Drive. Mr. Butler mentioned the Town also received an email correspondence regarding the Littleton project from Mr. Charles Copley.

VII. APPROVE PRIOR MEETING MINUTES

No minutes were approved.

VIII. ADJOURNMENT

Prior to adjournment Mr. Butler stated the next meeting will be on August 24th, and he has invited Lorna Brunnelle to speak and present a case study on the success of "Sip 'n Stroll" events in Middleboro.

MOTION by Ms. Whiteside seconded by Mr. Buckland to adjourn.
VOTE 3- 0-0 (Unanimous)

Meeting was adjourned at 10:00 AM

Submitted by  _____
Kenneth Buckland, Clerk of the WRA

Date Submitted to Town Clerk 8/24/2023

Documents used or reviewed in the meeting:

1. Power Point presentation titled 'Merchant's Way Air Rights.'
2. Document titled 'Wareham Village Urban Renewal Plan, List of Outstanding Information, Last updated August 9, 2023'
3. Document titled '21108 - Wareham. Wareham Village Urban Renewal Plan, List of Outstanding Tasks, Last updated as of August 7, 2023'

Merchants Way Air Rights

Information on air rights and what it means for Wareham



Air Rights

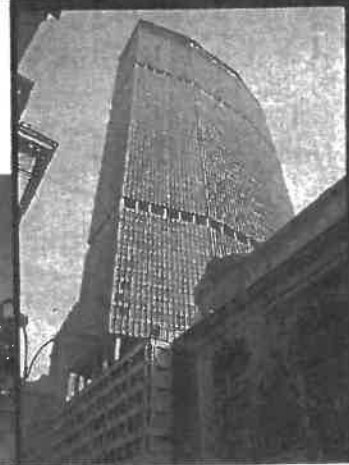
- Air rights – control of the airspace above a piece of property
- Can be used for development



Air Rights



(Google Maps)



(Library of Congress)



(City of Fall River)

(Google Maps)

Air Rights

- There is potential for up to about 4 acres of air rights development above Merchants Way



Laws governing air rights

- Air rights in Massachusetts fall under M.G.L. Title VII, Chapter 40, Section 22E
- The law reads as follows:



Laws governing air rights



Whenever the board or officer having charge of a structure or facility owned by a city or town, and not within the limits of playgrounds or lands held for park, conservation or similar purposes whether acquired under general or special law and irrespective of the date of acquisition, determines that the whole or any part of the airspace above such structure or facility is not required for the purposes thereof, such board or officer shall publish once a week for at least three consecutive weeks in a newspaper of general circulation in such city or town an advertisement of such determination, identifying the structure or facility involved. Such advertisement shall invite sealed proposals for the leasing of such airspace for a term not exceeding ninety-nine years and for the construction of a building therein pursuant to basic drawings and outline specifications to be submitted with such proposal. Such advertisement shall also fix a time, not less than three months after the first publication of such advertisement, and specify a place, at which time and place such board or officer shall publicly open and read such sealed proposals.

Any provision of general or special law to the contrary notwithstanding, the city manager in the case of a city having a Plan D or Plan E charter, when authorized thereto by an affirmative vote of a majority of the city council, the mayor in the case of any other city, when authorized thereto by majority vote of the city council, and the selectmen in the case of a town, when authorized thereto by vote of the town at a town meeting, may lease, in accordance with whichever of the proposals so submitted is deemed most advantageous to such city or town, the whole or any part of the airspace determined as aforesaid to be not required for the purposes of such structure or facility and such parts of such structure or facility or the site thereof as may be necessary for structural supports and means of ingress and egress to and from the building to be erected in such airspace. Buildings and other things erected or affixed pursuant to the lease of any such airspace shall be taxed to the lessee thereof or his assigns in the same manner and to the same extent as if such lessee or his assigns were the owners of the land in fee and the value of the land shall be included in any such assessment.

Laws governing air rights

"The Selectmen."

"when authorized thereto by vote of the town at a town meeting, may lease"

"the whole or any part of the airspace determined as aforesaid to be not required for the purposes of such structure or facility and such parts of such structure or facility or the site thereof as may be necessary for structural supports and means of ingress and egress to and from the building to be erected in such airspace."

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Laws governing air rights

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Laws governing air rights

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Laws governing air rights

• Summary:

- Following town meeting approval, the Board of Selectmen would be able to lease air rights above town structure or facility
- Town must then invite proposals from developers
- The town can proceed to select that which is deemed most advantageous
- Development shall not interrupt function of facility, in this case the road.

Laws governing air rights

- Other laws regarding air rights:
 - M.G.L. Part 1, Title II, Chapter 6C, Sections 20 and 46
 - Title XVII, Chapter 121A
- None are relevant to potential projects in Wareham



Laws governing air rights

- Federal rules apply only to Navigable airspace
- “the airspace at or above the minimum altitudes of flight (500ft) that includes the airspace needed to ensure safety in the takeoff and landing of aircraft” (FAA)
- Does not apply to the air rights in question above Merchants Way



Similar Projects



- In Massachusetts currently, there is one similar project taking place in Medford
- 28 Acre development in city-owned air rights over Wellington MBTA facility
- Split into 2 parcels, 10.75 acres and 17.25 acres
- City issued RFI seeking concept designs from developers
- Medford is currently reviewing designs and will use designs to inform RFP

Similar Projects



Merchants Way



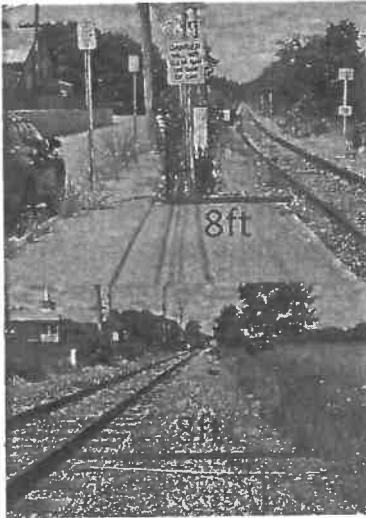
- Currently the town owns the air rights above the road
- Fewer obstacles to development when compared with other projects (i.e. Mass Pike projects, among others)

Merchants Way



- The track, to my knowledge is owned by MassDOT, therefore so are the air rights above it
- Development would require coordination with the state

Merchants Way



- MassDOT owned area extends 8ft on either side of the track
- Air rights should correspond with ownership of land
- MassDOT owns air rights over track and 8ft on either side
- Medford/Wellington air rights granted to city by the state legislature in 1969
 - An option worth looking into

Wellington Air Rights



- Chapter 729 of the Acts of 1969
 - “An act authorizing and directing the Massachusetts Bay Transportation Authority to grant to the city of Medford the air rights over its property in the Wellington area of said city.”

Wellington Air Rights



- Chapter 729 of the Acts of 1969
- “The Massachusetts Bay Transportation Authority is hereby authorized and directed to lease to the city of Medford air rights including rights for support, access, utilities, and light and air, for a term of years not exceeding ninety-nine years over a certain parcel of land owned by said Authority in the Wellington area of said city”

Time Frame



- The process for air rights development over Merchants Way can begin following town meeting approval
- Use of the air rights above the tracks could take longer, require a process with MassDOT, potentially state legislature

Any Questions?

Wareham Village Urban Renewal Plan
List of Outstanding Information
Last updated August 9, 2023

- Text added for the adaptive reuse of the Tremont Nail Factory
- We also need to coordinate any additional public actions from the Resilient Main Street Study.
- For the possibility of a mixed-use/TOD project near the train station. keep the acquisition of 307 Main but remove the public parking garage
- Note design guidelines adopted for WV1R
- Is the WRA incorporating design guidelines into this plan and, if so, who is the design review body for projects within the URP? Note that the MEPA process may also result in design standards. Both of these may belong in the 12.02(1) Redeveloper's Obligations. Will all redevelopments within the URP area be subject to these design guidelines or just those who have LDAs with the WRA? Will the WRA be the design review authority? MEPA may require similar requirements to the Resilient Main St
- Maggie also suggests adding the schedule for MEPA review – see the outline
- The implementation plan on page 57 includes recommended actions that take place during the life of the urban renewal plan (20 years). Should these be incorporated into the URP?
- The RMAT tool, described on page 78 of the Resilient Main street Study, will be required for the MEPA process.
- Need some cost estimates that could be incorporated into the financial plan for the URP. Is that a second stage to the Main Street process or a completely different process? Maggie had requested the costs of the public infrastructure improvements.
- The resilient Main Street mentions voluntary buyouts. Is this something the WRA would do? If so, the URP could anticipate this strategy and identify the relevant buildings as acquisitions.

Maggie wants to know the affiliations of the CAG members. These are the names:

- George Barrett, downtown property owner, former chair Planning Board
- Anne Eisenmenger, publisher of local paper, Wareham Week
- Evangeline Le Blanc, *private citizen*
- Fred Newton *(Menas)*
- Marie Oliva, Director, Canal Area Regional Chamber of Commerce
- Mary Ten Eyck Taylor *Resilient Main Street Attorney*

21108 – Wareham
Wareham Village Urban Renewal Plan
List of Outstanding Tasks
Last updated August 7, 2023

Note: the tasks below are listed in chronological order.

URP sent to
CAG 13 am 11
13 WRA
Not possible
WY 5/17
3-0-0

	Task	Assigned to
OPTIONAL	Coordinate outstanding information for draft URP.	Innes Associates and Ken
	Complete update of draft and provide appendix of parcel inventory and public meetings to date.	Innes Associates
	Review draft.	WRA
	Set date for CAG review?	WRA - decision needed
	Set date for CAG meeting?	WRA - decision needed
	Set date for public review?	WRA - decision needed
REQUIRED	Set date for public presentation?	WRA - decision needed
	Consider filing EENF with MEPA now. Pre-notification must be done 45-90 days before filing. Filing the EENF will allow a conversation about RMAT tools, design guidelines and other potential requirements BEFORE the municipal approval process.	WRA - decision needed Town staff? Consultant unknown.
	WRA to declare necessity for action due to Blighted Conditions	WRA
	Planning Board to determine that the URP is based on a local survey and in conformance with previous plans for the area including the Master Plan. Note: This is not required to be a public hearing, but could be. If so, standard notification of the public hearing is required.	Planning Board 3-0-0 PAB decision DRAFT
	Notify Massachusetts Historical Commission of the public hearing by the Select Board.	Town staff
	Public Hearing by the Select Board; vote to approve the plan and send to EOHLC. Note, this means standard notification of public hearings is required.	Select Board
	Review draft URP and provide a written certification that it is in conformance with applicable laws and regulations	Town Counsel.
	Make all final edits post-approval and provide updated appendix of public meetings, appendix of municipal approvals, and Town Counsel's letter.	Innes Associates

	Submit final URP to EOHLC.	Town staff/ Innes Associates
MEPA	Submit SEIR to MEPA. Note: There are specific timelines for posting and responses.	Town staff? Consultant unknown.
	Host public hearing conducted by MEPA	Town
	Conditional approval by EOHLC	EOHLC
	Final approval by MEPA	MEPA
	WRA has an actionable URP!	