



# Town of Wayland Massachusetts

## River's Edge Advisory Committee ("REAC") Meeting Minutes for Thursday, January 14, 2016 Meeting

Members Attending: Jerome Heller (Chair)                      Rebecca Stanizzi  
Michael Ellenbogen    William Steinberg  
Daniel Hill    William Sterling  
Robert Morrison    Michael Wegerbauer

Absent: Christine DiBona

Guests: Jean Milburn  
Molly Upton

Meeting was called to order at 7:35 AM.

Public Comment: None  
Jean Milburn noted she was present at the REAC RFP Forum 1/7/16

Meeting Minutes: Minutes of January 6, 2016 were approved as amended, 7-0, Steinberg abstaining since not present for 1/6 meeting.

Review of Comments from RFP Developer Open Meeting held 1/7/16 which was held to solicit comments from potential bidders as to why they did not bid:

8-10 developers attended, mostly market-rate developers with a couple non-profits and one architect representing a senior housing developer. Common themes were:

- Threshold to bid, in terms of time and money required, was high in comparison to potential odds of winning. Bidders were willing to invest the significant time and money for due diligence, but only if/when they knew they were selected.
- Developers were not deterred by any actual tasks required on site (sewer treatment plant; water line; demo; environmental) as part of development, but rather by the time and money required for due diligence, above.
- The large dirt piles, mentioned in particular out of all the various environmental conditions on site, create uncertainty, simply because the full contents of the pile will be difficult to be known without fully sifting/testing it.
- For market and non-profit developers, the Fair Housing Act was discussed to be an issue.

[It appears that in order for a project to “discriminate” to favor those over-55, by Fair Housing law, it must have over 80% seniors; therefore, developers would need to subdivide the senior housing from non-senior housing so it could favor seniors for that portion, to achieve overall 25% goal. So, counterintuitively, in our case, Fair Housing appears to mandate segregation.]

Several of the market developers noted that they were likely to and in fact currently had more than 25% over-55 in their current developments; however, they found that majority of “younger” over-55 tenants did not want to be in so-called senior housing, so market developers resisted the strict definition of required over-55 housing. They felt rents would be lower and vacancies higher in these segregated areas, and not be as appealing.

Simply based on logistics, a non-profit developer noted that it would be difficult for her group to complete the equivalent of two separate projects to comply with FHA, based on their project funding mechanisms.

- In the design guidelines, there was concern about the perceived desire for “colonial” architecture; peaked roofs; and “wedding cake” building heights [stepped zoning]. (Also concern that a café was required – this was confirmed to be a suggestion only as a way to show quality of proposed community, but is not mandated.)
- Bidders were not concerned about submitting conceptual plans (true Schematic level plans confirmed not to be required), plans/elevations/operating projections were considered typical and expected.

Developers were specifically asked, based on feedback above: If they were asked to provide conceptual plans and a gross price, less estimates for the four primary site conditions (sewer treatment; water line; demo; environmental), leading to a Net Price to the Town – and then the winning respondent was provided with a 90-day due diligence period to confirm the four estimates (solely their cost and risk, but with the knowledge they were designated) prior to the prices locking in for good – would they then bid? All were in general agreement that they would.

Bidders were asked, if the RFP were to be reissued/revised, how long would it take for them to respond? General consensus was 30-60 days. It was discussed to set 60 days to allow bidders not in the room, or who may have given up earlier, to join back in.

#### Discussion of Proposed Changes to RFP:

Given developers appear willing to proceed with changes to RFP protocol, there was discussion and agreement that changes that would require town meeting vote (such as further studies which would cost money; work on site that would cost money; or changes to zoning) were not necessary and should not be pursued. The RFP should be revised for reissuance.

Changes to the RFP would include extending the existing Due Diligence Period from 60 to 90 days, with successful bidder undertaking significant cost and effort *after* designation, at their risk. [Previously the RFP required due diligence *prior* to the bid, and changes would only be allowed for

conditions materially different than those as disclosed in the RFP] Sample narrative language was reviewed, attached.

In terms of senior housing, if developers want to propose a project *not* in compliance with Fair Housing law, which would likely then require zoning relief/change, the question was debated how the Town would respond.

It was discussed that projects in compliance would be preferred, i.e. would score higher in single criteria of “feasibility” simply because it wouldn’t entail further efforts by Town. However, if REAC/BOS were to recommend a non-compliant proposal, based on otherwise compelling community/design which met the essence of the 25% senior requirement, the Town could assist, however it should be made clear to bidders that it would likely require Town Meeting vote or other mechanism not in the control of REAC or BOS at the time of award. If for any reason required approval could not be secured after award, the agreement would have to be terminable.

The Design Guidelines were discussed to be revised to clear up any misunderstandings on intent, and to allow a bit more design flexibility, but with no changes in zoning.

It was voted 7-0 (Steinberg motion; Sterling second; M. Wegerbauer left meeting early and was not present for last vote) to have Bill Sterling and Rob Morrison work together to mark up the Design Guidelines, and Bill Steinberg and Becky Stanizzi to draft changes to RFP and Land Disposition Agreement (LDA), for review and comment next meeting.

Becky Stanizzi agreed to find out status on legal budget; goal if possible is to use any last remaining River’s Edge funds for legal review of any RFP reissuance/addendum by Anderson & Kreiger, RFP counsel to date, for continuity.

Any RFP reissuance will likely require re-posting for 30 days with the state register, therefore by the time language is drafted, reviewed by counsel, and signed off by REAC and BOS, then submitted to register, a reissued RFP is not likely until March, which would lead to bids due in May.

Next meeting set for January 26 2016 at 7:30 pm.  
Meeting adjourned by 7-0 vote at 8:40 am.

Minutes respectfully submitted by R. Stanizzi.

*Proposed new RFP paragraph:*

## 2. Bid Format and Review

The River's Edge site has site conditions which may entail additional review for a bidder with third party professionals, and this review may not be possible with sufficient thoroughness before providing a bid.

To this end, the Town of Wayland is requesting bidders to provide a purchase price for the site as an unencumbered site, and then provide estimates for the specific infrastructure and/or site condition costs which reduce the purchase price, leading to a Net Purchase Price to the Town, so that the Town can compare financial proposals on these bases during its review.

Once a successful bidder is selected, and executes the Land Disposition Agreement, ninety (90) days will be provided for the successful bidder to complete its due diligence to confirm the infrastructure and site condition estimates. After that due diligence period, the Net Purchase Price to the Town will be fixed.

If during due diligence the successful bidder determines that costs are in excess of its estimates then the ~~bidder may costs will be~~ demonstrated with competitive pricing evidence provided to the Town, and the Net Purchase Price will be adjusted by mutual agreement between the parties. If the parties cannot agree, either party may terminate the Agreement.