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NORTH READING, MA

**Town of North Reading**  
*Massachusetts*

*Board of Appeals*

**MINUTES**  
**ZONING BOARD OF APPEALS**  
**DISTANCE LEARNING LAB, NORTH READING HIGH SCHOOL**  
**AUGUST 8, 2019**

**Present: Jim Demetri, Joseph Keyes, Jennifer Plate, Matt D'Angelo, Bill Bellavance and Amy Kwesell, KP Law**

**Public Hearing**

**20 Elm St – NY Ventures, LLC by their Attorney Regnante Sterio LLP**

Acting Chair, Jim Demetri, opened the meeting in the Distance Learning Lab in the High School for the Comprehensive Permit pursuant to MGL c. 40B and 760 CMR 56.00 for the construction of Elm St. Apartments, a 200 unit (50 affordable units), 5 building, rental apartment development to be located at 20 Elm St.

**Mr. Demetri moved to adjourn the meeting and reconvene in the Performance Arts Center due to the expected number of abutters and participants to attend the meeting; the motion was seconded by Mr. Keyes; and it was voted 3-0.**

Members reconvened in the Performance Art Center and Mr. Demetri reopened the hearing. Mr. Demetri started off by describing what a 40B development is. He advised the audience of how the procedure of the meeting will go forward. He explained how a workshop would be of made up and would consist of the Development Team (department heads in Town) a member from the Selectboard, a member from the ConCom, CPC, two from Town Counsel, 2 from the applicant or his representative, and any other participants deemed necessary by the ZBA. Mr. Demetri explained that at these workshop meetings, nothing will be decided at the workshop meetings; but ideas and proposals will be brought back to the Zoning Board of Appeals. Mr. Demetri also explained how the decorum of the meeting would go forward. Mr. Demetri read off a list of letters received from departments and committees and also one letter from an abutter, Mr. Woodmansee. (Correspondence will be available on the town website.

Attorney Amy Kwesell, KP Law, Town Counsel, who has dealt with many Comprehensive 40B proposals, suggested the firm of Tetra Tech Inc. The scope of services from Tetra Tech for professional engineering services for the project is attached.

**Mr. Keyes moved to hire Tetra Tech as the engineering firm to complete the peer review for the 20 Elm St. project as suggested by Attorney Kwesell. Ms. Platt seconded the motion; and it was voted 3-0.**


Mr. Demetri asked members whether they wanted to appoint members to the workshop or have him select individuals.

**Mr. Keyes moved to have the selection of the workshop membership chosen by Mr. Demetri, Acting Chair of the ZBA; Ms. Platt seconded the motion; and it was voted 3-0.**

Attorney Regnante introduced his team, himself and Atty. Jess Schomer from Regnante Sterios, and Ms. Sweet, Financial Advisor from LDS Consulting, Chris Sparages from Williams and Sparages, Greg Hockmuth, Wetland Delineator, David O'Sullivan, Architect, Jeffrey Dirk, Traffic Study and Nick Yebba, the manager, gave an overview of the project. He said this is the initial hearing under Ch 40B Mass. General Laws and Regulations under 760CMR 56. This is a comprehensive permit to authorize the construction of Elm St. apartments, a 200 unit, 5 building rental project at 20 Elm St., filed by NY Ventures LLC, a Mass. limited liability company in care of and filed on behalf of Nick Yebba, manager.

Atty Regnante said that after meetings with the Town Planner, the Town Manager and some Selectmen in May 2018, the number of units were reduced from 240 to 200. There is another alternative being discussed under a 40A, which would require zoning changes and is still being discussed separately. March 27, 2019 Mass. Housing issued a project eligibility letter which allowed the applicant to move forward with the Zoning Board of Appeals. Funding will be through a Mass. bank to be determined. Attorney Regnante said that the issues outlined in the PEL letter by North Reading Elected officials and local residents will be reviewed and discussed as the process continues. Attorney Regnante said the process can go on for 6 months.

A portion of the parcel at 20 Elm St., which is located in the SW section of North Reading on the line of Middleton and Lynnfield is in an RA Zone. Atty. Regnante said that 10 single family homes could be built by right according RA zoning, but 200 rental units could only be allowed under a 40B, where zoning requirements could be waived. Mr. Yebba, or Country Club LLC, bought Theresa's Prime in 2012 with two restaurants, an event venue, swimming pool, with a private drive off Elm St. The total land amounts to 24.2 acres and he intends to divide the lot into two parcels through an ANR with CPC. The first lot would consist of the restaurant, parking lot and pool and the 2<sup>nd</sup> lot, approximately 19 acres would be where the 5 identical buildings would be located. Attorney Regnante described the area and the different uses, ie, residential, industrial (Bostik), and multi-family (the Greens), Building 4 will house the management/leasing office. The buildings will hold 40 apartments in each building with 50% -1 bedroom, 40%- 2 bedroom, and 10% -3 bedrooms. There is access from the parking area up to the apartments by elevator. Ten units will be fully handicapped accessible. In the garages, there will also be space for storage, bicycles and electric car chargers. There will be 308 total parking spaces, 133 under the




buildings and 175 available in the parking area. . Each unit will have 1.5 spaces per unit. The parking meets the State standards but would need a waiver from the local regulations of 2 spaces per unit. A 600 foot 24 ft wide access past the parking lot restaurant and pool area and would go to the rear of the site. There is a 20' wide gravel & paved emergency egress for fire and police that returns to Elm St. and will be gated and only for emergency vehicles. There is no sewer; so a private Waste Water Treatment plant will be constructed. Mr. Regnante said no building is within the 12' buffer and there aren't any underground fuel tanks being proposed. The Waste Water treatment plant will require a ground water discharge permit, overseen by DEP. The project will take approximately 18 months to complete.

Table 18 covers waivers to be asked of local government, 10% of the housing stock has to be dedicated to low and moderate income. The town's current percentage is 9.6%. If the project is approved, Attorney Regnante said that all units (200) can be counted in low income calculation. 70% of the affordable units will be filled by North Reading citizens first, employees or close relatives of North Reading residents.

Mr. Regnante said he has no objections to the engineering consultant. He would suggest eliminating the wetlands portion of the scope of work because ConCom already has a 3<sup>rd</sup> party peer reviewer. He is also in agreement with the workshop, although he would suggest that the first workshop not be held until the consultants come back with their report after their initial review. Attorney Kwesell stated that the ConCom consultant delineated the wetlands but didn't apply wetlands to this project.

Mr. Regnante went over the several resource areas on the property. The Ipswich River lies to the south of the property and the project lies within the 200 foot buffer to the Ipswich River. There is also BVW to man-made ponds and Bordering Land Subject to flooding flagged by Williams and Sparages. The applicant is filing an Order of Conditions with ConCom simultaneously. The Conservation Commission hired Caron Engineering as a 3<sup>rd</sup> party consultant who changed a few of the applicant's flags. No portion of the property is within a protected habitat or endangered species habitat or are there any vernal pools. FEMA indicates a special flood AE area. There is no activity proposed within 60.81. Attorney Regnante also stated that there is no historical features existing on the parcel and the existing building is not historical.

Chris Sparagus, from Williams and Sparages spoke on the wetlands resource areas and how the project would work around those areas. The Ipswich River flows from West to South over the 24.2 acres. To the South are several areas of open land toward Lynnfield. Mr. Sparages described the property and the roads surrounding the parcel including Elm St., Gillis Dr., The Greens, and Lynn St., in Lynnfield. The property lies a quarter mile from the town line to Middleton and he said there are sidewalks on Elm St. Elm St. is at the highest point and the Ipswich River to the lowest. The land is relatively flat. There is only a 10' elevation change from the beginning of the buildings down toward the River and then a 30' change down to the river. There is an intermittent stream that would be piped through the driveway and out to the river. The mean annual high levels run along the river. The 200' riverfront from buffer runs through the back of the property and one building. Two buildings are within the 100' buffer from the river's edge and the intermittent stream. Greg Hochmoth and Leah Basbanes, the North Reading Conservation Agent and an independent agent concurred on the wetland's delineation. The driveway will be 24' wide, a two car width. There will be two parking spaces at each building for handicap individuals. The dumpsters will be enclosed, located at the entrance to the development. A private waste hauler will



dispose of the trash. A 6 inch water line will come off Elm St., for water and fire hydrants. They plan to deal with stormwater management by capturing roof runoff into underground chambers, one behind Building 2 and two other storage areas. They also plan to use a deep sump catch basin, collection pipes, an infiltration basin with pre-treatment catches for the paved areas. The infiltration basin will be released at a slow rate towards the river. Mr. Sparages said the rate of runoff can't increase. The soils are sandy and gravelly. The peer reviewer will check all these calculations. Mr. Sparages went over the 10 standards for Storm Water Management and how the Waste Water treatment plant will work.


David O'Sullivan, the architect gave a review of the buildings. The garages will have 5% handicap accessible. The units will have 1, 2, & 3 bedrooms, balconies, and garages have spaces for bikes and Building 4 is the management and leasing offices, club house and gym.

Mr. Demetri then asked if there were any comments from the audience

Robert G. Adkinson, 82 Elm St. stated his concerns about traffic in the area, the increase to the schools and said this development would add an additional 240 kids, and potentially 400 vehicles. He said a traffic study would show that Elm St. would need to be widened. He said the State should compensate the town if they give approval to a 40B.

Attorney Dan Hill, representative for the abutters to the project including Defend Ipswich Communities. He has been in land use, practicing 40B for 20 years. He has been hired as their attorney and to review the project and provide comments throughout the course of the Public Hearings. Each town has to meet the 10% housing unit minimum threshold under 40B. The Town is only 20 units away and he feels this 200 unit project is 10 times the units. A second threshold is the General Land area threshold. If a town has affordable housing on at least 1.5% of its total land area that serves the same purpose. The board can deny a 40B project if the town has met that. He doesn't think the data that the town has run includes all the calculations and doesn't think, specifically, the group homes are included in their calculations. He says there are 51 bedrooms or units managed by the State Dept. of Developmental Services who keeps an inventory of all the Group Home units. They don't tell where these units are because they don't want to infringe on individuals being served. No one knows for sure except the DMR. He recommends that the Town invoke the threshold tonight with the good faith belief that the Town has met that 1.5% threshold and between now and the next meeting a solid number could be discovered. The State regulations under 40B require the ZBA to invoke this within 15 days of opening the hearing. If you don't assert the defense within 15 days you lose the opportunity and it can never be asserted again. He feels the town has not met that. He said, it doesn't have to slow things down, hearings can proceed.

He said that the project will disburse 35,000 gal of waste water per day, sewerage that's going to be treated in the Waste Water Treatment plant and discharged into a very large leaching field on the site. There will be over 12 mil. gallons a year, 400 feet off the Ipswich River, approximately 300 feet from a private drinking well on Lynn St., and around 100' away from a wetland that's on the project site. That wetland connects to a brook and then into an intermittent stream (which he feels ConCom will determine in the ANORAD process) eventually into the Ipswich River. He said the Ipswich River is a protected river and a lot of towns depend on it for their water. Over 12 Mil gal of waste water will be put into the ground and contaminate the water. He highly recommends that the Town hire a hydrologist to review all



the hydrology impacts, not just Tetra Tech, who they are happy with, including the Waste Water plant and the stormwater system. They hired Scott Horsley, a hydrologist. Scott helped draft the storm water standards and a member of DEP's Adhoc Committee. He has reviewed the project and they will be providing a letter from him. Scott believes there will be a fair amount of ground water mounding which happens when you have a lot of water being recharged into a small confined area. It will raise the existing ground water. This site already has high ground water. Atty. Hill said this could be a problem because the soil is being used to clean out pollutants before the waste water plant and stormwater. Scott's opinion is that this project is going to raise the ground water. Atty Hill also suggests that a traffic study be done and that the town look at the waivers, because the applicant has to justify the waivers requested. He said the Board still has the right to deny if overriding waivers threaten public health or safety.


Mr. Vallenti, 6 Hayward Farms, President of the Defend Ipswich River. They have posted over 300 signs in opposition in surrounding towns. They have raised money to hire experts, consultants and attorneys to act as a neighborhood watch dog, to help them prevent this project from happening. Through lots of work and state money the River has been removed from its once critical state as the 3<sup>rd</sup> most ending river in the country. They will be dumping too much treated water in the area. This project will serve as a disaster for North Reading plus other communities down steam.

Christine MacNeil, 4 Lynn St., Christine is one of the closest abutters. Two of the buildings would tower over her home and others. One is about 50 feet from the back wall of her house. Her house is in a depression and the five story building will be more like 7 stories to her. She invited the Board to come to her house and see the flags posted. The height and wildlife displacement are a concern to her. She sees deer, turkey and many other animals and said they are in danger of loss of habitat which will push them into the streets and will become a danger to drivers along Elm St. The loss of trees will also cause flooding in the area.

John Berette, 2 Dogwood Ln, Mr. Berette cited two open source research papers online 1. Stanford University Global School of Business 2015, a 10 year study and Inconvenient Truths 2015 Standard – they state that in high concentrations of low income housing in median, \$54,000 and above, drastically reduces the property value of immediately around the area. Those affects stay in effect for 10 years. Also when there is a high concentration of low income housing, there is a drastic increase in drug crime and violent crime in these areas.

Ms. Davis, 11 Williams Rd – She believes that towns need affordable housing but all buildings within 200' to the Ipswich River. There is a need for public transportation and if the project is built a bus line should be run out to this area.

Tom Woo, 40 Riverside Dr., Mr. Woo has been living in his house for 35 years. He is working with Defend the Ipswich River group. He said over 20-25 years ago the town proposed Section 8 housing Or roughly 16 apartments and they organized abutters then. He said there are no sidewalks and the closest grocery store is 2 miles away – you would need a car. Less than 10 days ago there was an accident on Rt 62 and a fatality there 5-7 years ago. Traffic will be unbearable. He said the Town can put affordable housing somewhere else.



Elizabeth Coolidge Stoltz, 2 Gillis Dr. – She said the sidewalks are only on one side of the street. There are undeveloped wetlands on Ipswich River. She spoke of the pristine riverfront, a colony of American Bitters, and endangered salamanders. She said this is an irreplaceable water source. In 2003 the Ipswich River was named the 3<sup>rd</sup> endangered rivers. De-forest station and surface flows will be devastating.

Patricia Campbell, an abutter from Lynnfield and a member of the Lynnfield Center Water District explained how Lynnfield gets their water from the Ipswich River. There will be 400 bathrooms from 200 units going into the river. The traffic will increase. Their town meeting defeated two proposals near the Sagamore Golf Course. There will be noise and air pollution too. The developer is proposing 1.54 parking, not even 2 cars per unit. There will be an impact on the Police, Fire and Schools. Marketplace in Lynnfield has been detrimental and the Town has had to hire more Police and Ambulance services. She hopes North Reading will defeat the project.


Rita Mullen, 29 Abbott Rd, said that over 30 years ago the Town bought Hillview and stopped a development there. They took the Drinkwater property and then the Smith property. She said senior housing is needed. It's only common sense that we should work an approve what North Reading wants and not concentrate on defeating the developer.

Dorrena Heathridge, 8 Lynn St., is a direct abutter and she is on the leadership team to Defend Ipswich River. She went on a site walk with NY Ventures and housing reps. Buildings 1 & 2 are in close proximity to the houses on Lynn St.. These residents on Lynn St. will be disproportionately affected. The Town requested the developer to reduce the distance and the height. The developer gave no comfort. The size and scale of these buildings aren't like any in the surrounding area. It's a drastic change from the 10 homes that could be developed. A potential for flooding, contaminating her well. The increase in noise and air pollution and the privacy concerns around the construction process. Traffic will be increased and more of a burden put on emergency services. She stated her concerns about the environment. She urged the Board to deny the project. North Reading has an affordable housing plan she said this is not it.

Lynn Murphy, 14 Hemlock Rd – she said she is part of the Defend Ipswich River leadership team. She said Mass Housing allows the Board to let the developer apply for waivers but she would urge the Board to consider the local concerns under 760 CMR 56 07 C6, to protect the health, environment and preserve open spaces. She also stated her concerns for the demands on the fire and police. She said there will be over 400 people living at 20 Elm St. and the fire & police services are stretched from one end to the other and rely a lot on surrounding towns.

Marcy Bailey, 22 Duane Dr – part of Defend Ipswich River. She asked Mr. Demetri, for those who have left early from the meeting where can they sign up for the workshop committee. Mr. Demetri asked if anyone wanted to sign up, they can call the town hall and speak with Kathy. She spoke of her concerns for the Ipswich River and how this project will affect it. Failures to the waste water treatment. She would ask the Board to decline the project.

Owner at 6 Hayward Farm Ln – part of the Defend Ipswich River. She learned of the Housing Production plan that the Town invested in, funded by the State and Town. She said the 20 Elm St. project doesn't fit



into their model. The older couples want to down size and younger families need starter homes. This area has no sidewalks, no transportation and no doctors. The 40B process was meant to do good things but there are too many loopholes. She invited all to come to a fundraiser at the Horseshoe to raise money.

Owner at 3 Putter Ct; she represents the people at the Greens. Their road and the road to the new development, is right across the street. There are a lot of older people who require emergency response vehicles. The environmental impacts from the water treatment plan not to mention the landscaping chemicals leaching into the ground and salt off the roads. She agrees with Attorney Hill to invoke the General Land Area Minimum.

Zach Mullen – he talked about his memories on the river and what a great resource it is to North Reading.

Vincenzo Studio, 122 Elm Street – part of Defend the Ipswich River. He read an article from NR Transcript. Spoke about how traffic will increase on Elm St, a small winding road with no sidewalks. He also spoke about the risk of the waste water treatment plant to the Ipswich River.

Andrea Spano – 3 Haywood Farm Ln – part of Defend the Ipswich River, shared a quote on how good waste water treatment plans are – they will fail. “Statewide outfalls along major rivers in Mass. have over discharged 3.4 billion gals of sewerage last year”

Gail Tenney, 12 Angel Rd, talked about parking and no public transportation and thinks this project is underestimating the number of cars that will need parking. The traffic from all the new cars and accidents are concerning. There will be large backups in the center of Town.

Jim Mahoney, 248 Elm St. – He thinks Mr. Yebba is looking out for himself. He feels the town is turning into a city.

Mike Turell, 21 Lindor Rd – He feels it shouldn't be up to the State and asks the Board whether this is a good place for low income.

Robert Atkinson, 82 Elm St., Mr. Atkinson spoke again this time on whether the applicant will have backup generators and how will that be with the storage of gas and the noise from them.

Jeff Shultz, 2 Gillis Dr., 2 Gillis Dr. – The Town needs affordable housing in North Reading and this project will distract the efforts to accomplish that. There's no walking along Elm St.

Greg Pineo, 38 Elm St. He wondered who placed the proposed dumpster right near his house?

Mr. Demetri thanked the audience. He then asked the applicant to continue the Public Hearing to Thursday August 22, 2019, to discuss whether they intended to invoke Safe Harbor or General Land Area Minimum (GLAM) The town would have to do this within 15 days of the initial hearing date.



Mr. Demetri moved to continue the August 8, 2019, hearing to Thursday, August 22, 2019 at 6:45 at the Performance Art Center of the North Reading High School. Mr. Keyes seconded the motion; and it was voted 3-0.

Mr. Demetri moved to adjourn the meeting, seconded by Mr. Keyes; and voted 3-0.

Approved

A handwritten signature in black ink, appearing to be "James J. [unclear]", written over a horizontal line.

Date

10/3/19





**TETRA TECH**

August 5, 2019

Town of North Reading – Zoning Board of Appeals  
235 North Street  
North Reading, MA 01864

**Re: Comprehensive Permit (40B) Peer Review Proposal  
20 Elm Street  
North Reading, Massachusetts**

Dear ZBA Members:

We are pleased to submit this Proposal to the Town of North Reading Zoning Board of Appeals (ZBA) for professional engineering services associated with the above-referenced Project. The objective of our services is to assist the ZBA in its review responsibility by providing thorough and informed review of the proposed design and potential project impacts.

Each Task identified below targets various areas where the ZBA may require technical assistance and provides an estimated budget to complete technical review of materials expected to be submitted by the Applicant. The work of each task is distinct from other tasks and the ZBA can choose which subject areas require our involvement.

We are extremely well-suited to assist the ZBA in its efforts since our local (Marlborough Office) staff includes the wide range of engineers, designers, scientists and planners potentially needed to cover various areas of technical support. All review work will be performed under the direct guidance of senior Tetra Tech staff with the experience needed to differentiate between substantive and minor issues quickly. We will focus our initial review effort on identifying and resolving those critical issues that may require changes impacting other design elements.

In addition, I will be responsible for presentation of our review findings at public meetings. My experience in public meetings and technical command of the full range of issues provides the ZBA a resource capable of confidently and comfortably handling what can be a very challenging public forum.

## **Scope of Services**

The following specifically describes the Scope of Services to be completed:

### **Task 1 Civil/Site/Utility Plan and Document Review**

Under this task we will review general site and utility design including critical subject areas such as parking and roadway layout, emergency access, handicap access, utility layout, construction phasing and erosion control.

- A. Perform a civil engineering site visit to review the site and its surroundings
  - Budget Assumption: 3 hours @ \$265/hr = \$795  
3 hours @ \$100/hr = \$300  
Total = \$1,095

- B. Review one set of proposed plans for the Project prepared by the Applicant's engineer for conformance with good site engineering practice related to site development and utility design including proposed construction phasing and erosion/sedimentation control plans.

- Budget Assumption: 3 hours @ \$265/hr = \$795  
8 hours @ \$125/hr = \$1,000  
4 hours @ \$100/hr = \$400  
Total = \$2,195

- C. Review a Stormwater Management Report for the Project for compliance with the latest Massachusetts Department of Environmental Protection Stormwater Management Standards, compliance with EPA MS4 General Permit requirements and good engineering practice. Review will include evaluation of proposed methods for groundwater recharge and review of supporting data and analysis.

- Budget Assumption: 2 hours @ \$265/hr = \$530  
8 hours @ \$125/hr = \$1,000  
Total = \$1,530

- D. Prepare a letter summarizing findings from Task 1A-C for presentation to the Town of North Reading.

- Budget Assumption: 3 hour @ \$235/hr = \$795  
4 hours @ \$165/hr = \$660  
Total = \$1,455

## **Task 2 Water Supply Review**

Under this task we will review information submitted by the applicant related to anticipated project water needs and proposed conservation measures and strategy for meeting projected demand.

- A. Review water demand estimates and identify potential issues with supply.

- Budget Assumption: 1 hour @ \$265/hr = \$265  
2 hours @ \$125/hr = \$250  
Total = \$515

- B. Prepare a letter summarizing findings from Task 2A for presentation to the Town of North Reading.

- Budget Assumption: 1 hour @ \$265/hr = \$265  
2 hours @ \$165/hr = \$330  
Total = \$595

## **Task 3 Wastewater Review**

Under this task we will review information submitted by the applicant related to proposed wastewater generated from the Project and the ability of the local sewer system to safely accommodate the proposed flows.

- A. Review wastewater generation projections and proposed disposal measures for compliance with the latest Massachusetts Department of Environmental Protection and local design guidance, applicable permit requirements and good engineering practice.

- Budget Assumption: 4 hours @ \$265/hr = \$1,060  
6 hours @ \$125/hr = \$750  
Total = \$1,810

- B. Prepare a letter summarizing findings from Task 3A for presentation to the Town of North Reading.

- Budget Assumption: 3 hours @ \$265/hr = \$795  
3 hours @ \$125/hr = \$375  
Total = \$1,080

#### Task 4 Traffic Review

Under this task we will review information submitted by the applicant estimating project related traffic generation and expected impacts on surrounding roads and intersections for compliance with State and Federal guidance. This work will include review of potential traffic/pedestrian/bicycle safety issues as well.

- A. Review Traffic Impact Statement and supporting documentation provided by the Applicant.
- Budget Assumption: 1 hour @ \$265/hour = \$265  
4 hours @ \$200/hr = \$800  
16 hours @ \$125/hr = \$2,000  
Total = \$3,065
- B. Prepare a letter summarizing findings from Task 4A for presentation to the Town of North Reading.
- Budget Assumption: 1 hour @ \$265/hour = \$265  
2 hours @ \$200/hr = \$400  
8 hours @ \$165/hr = \$1,320  
Total = \$1,985

#### Task 5 Wetlands Review

Under this task we will conduct a general review of information submitted by the applicant related to potential impacts to wetland resource areas. This will be a general review to inform the ZBA only since the North Reading Conservation Commission will still have project review jurisdiction under the Massachusetts Wetlands Protection Act.

- A. Review potential project impacts to wetland resources proximate to the proposed development. The review will include general confirmation of existing resource area delineation methodology, identification of potential vernal pools, evaluation of proposed construction controls and identification of potential long-term risks to wetland systems.
- Budget Assumption: 1 hours @ \$200/hr = \$200  
6 hours @ \$125/hr = \$750  
Total = \$950
- B. Prepare a letter summarizing findings from Task 5A for presentation to the Town of North Reading.
- Budget Assumption: 1 hour @ \$265/hr = \$265  
2 hours @ \$165/hr = \$330  
Total = \$595

#### Task 6 Meeting Attendance

- A. Participate in three (3) hearings/meetings with the Town of North Reading and/or the applicant or its representatives.
- Budget Assumption: 3 Meetings @ \$1,250/mtg = \$3,750  
Total = \$3,750

#### Cost

Our cost for the above Scope of Services will be on a time and expenses basis in accordance with Tetra Tech's then current Schedule of Hourly Rates (copy attached). Direct expenses will be billed at a fixed fee of four (4) percent of labor cost. We suggest that you establish a budget as described above and summarized below, which will not be exceeded without your approval. Please be advised that this estimate is based on our current understanding of the Project needs and is for budget purposes only. The total actual cost of our services will largely depend on the number of submittal iterations, the quality and completeness of information submitted by the applicant and the depth to which specific issues are explored. Cost for each task is based on a comparison with other similarly sized projects we have reviewed for other municipalities. However, additional funding may be required if new/revised materials are submitted.

<b>Task</b>	<b>Description</b>	<b>Budget</b>
Task 1	Civil/Site/Utility Plan and Doc Review	\$ 6,275
Task 2	Water Supply Review	\$ 1,110
Task 3	Wastewater Review	\$ 2,890
Task 4	Traffic Review	\$ 5,050
Task 5	Wetlands Review	\$ 1,545
Task 6	Meeting Attendance	\$ 3,750
	Labor Subtotal	\$20,620
	Expenses (@ 5% of Labor)	\$1,031
<b>Total Budget</b>		<b>\$ 21,651</b>

### **Schedule**

We are prepared to begin work immediately upon receipt of this executed Proposal. We recognize that timely performance of these services is an important element of this Proposal and will put forth our best effort, consistent with accepted professional practice, to comply with the project's needs. We request three (3) weeks from receipt of a complete applicant's submittal and direction to proceed with our review in which to complete our initial review and issue a comment letter. Subsequent reviews can likely be accomplished in a two-week period. We are not responsible for delays in performance caused by circumstances beyond our control or which could not have reasonably been anticipated or prevented.

### **General Terms and Conditions**

This Proposal is subject to the attached Terms and Conditions. Should this proposal meet with your approval, please sign and return a copy to us for our files. Your signature provides full authorization for us to proceed. We look forward to working with you on this Project. Please contact us with any questions, or if you require additional information.

Very truly yours,



Sean P. Reardon, P.E.,  
Vice President

Accepted by:

\_\_\_\_\_  
Authorized Agent, Town of North Reading

\_\_\_\_\_  
Date

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## Schedule of Hourly Rates

Hourly Billing Rates for: TT INE (NE)  
Rates Effective Starting: January 26, 2019

Personnel	Hourly Rate
<b>Operations Management</b>	
<b>Operations Management</b>	
Technical Director 1	\$227.00
Technical Director 2	\$238.00
Technical Director 3	\$265.00
Program Director	\$278.00
Principal in Charge	\$310.00
<b>Project Management</b>	
<b>Project and Program Management</b>	
Specialist	\$155.00
Project Manager 1	\$170.00
Project Manager 2	\$175.00
Senior Project Manager 1	\$190.00
Senior Project Manager 2	\$203.00
Program Manager	\$210.00
<b>Engineering and Architectural Services</b>	
<b>Engineers</b>	
Engineer 1	\$110.00
Engineer 2	\$120.00
Engineer 3	\$125.00
Project Engineer 1	\$135.00
Project Engineer 2	\$155.00
Sr Engineer 1	\$160.00
Sr Engineer 2	\$160.00
Sr Engineer 3	\$165.00
Principal Engineer	\$170.00
<b>Architectural Services</b>	
Architect	\$180.00
Designer	\$125.00
Interior Designer	\$150.00
Landscape Architect	\$145.00
Imaging (3D) Specialist	\$120.00
Space Planner	\$150.00
<b>Scientific Services</b>	
<b>Scientists</b>	
Scientist 1	\$110.00
Scientist 2	\$120.00
Scientist 3	\$125.00
Sr Scientist 1	\$135.00
Sr Scientist 2	\$155.00
Sr Scientist 3	\$165.00
<b>Technical Services</b>	
<b>Technicians</b>	
Technician 1	\$80-\$85
Technician 2	\$85-\$90
<b>Project Support</b>	
<b>Computer Aided Design (CAD)</b>	
CAD Designer	\$115.00
Sr CAD Designer 1	\$138.00
Sr CAD Designer 2	\$145.00
CAD Director	\$155.00



## Schedule of Hourly Rates

Hourly Billing Rates for: TT INE (NE)  
Rates Effective Starting: January 26, 2019

Personnel	Hourly Rate
<b>Business Support</b>	
<b>Project Administration</b>	
Project Assistant 1	\$75.00
Project Assistant 2	\$90.00
Project Administrator	\$100.00
Sr Project Administrator	\$120.00
<b>Finance / Accounting</b>	
Project Analyst 1	\$98.00
Project Analyst 2	\$112.00
Sr Project Analyst	\$150.00
<b>Technical Writers</b>	
Technical Writer 1	\$95.00
Technical Writer 2	\$110.00
Sr Technical Writer	\$115.00
<b>Graphics</b>	
Graphics Specialist	\$98.00
Graphic Artist	\$103.00
Sr Graphic Artist	\$108.00
<b>Consulting</b>	
Consultant 1	\$100.00
Consultant 2	\$110.00
Sr Consultant 1	\$120.00
Sr Consultant 2	\$130.00

**Reimbursable Expenses** - Non-routine expenses including, but not limited to outside printing, in-house report and document printing/copying, color copying/printing, large format plotting, delivery charges, travel, meals, lodging, subcontractor charges and other major expenses incurred for the project will be billed at cost plus 10 percent.

**Payment** - Invoices are issued monthly and are payable within 30 days of their issue date. In the event payment is delayed beyond 60 days from the issuance date, interest shall accrue at 1.5 percent per month on the unpaid balance.

**Expert Testimony** - A surcharge of 50 percent shall be added for expert witness testimony or participation in hearings or depositions, including preparation time.

## **Engineering, Environmental, and Transportation Statement of Terms and Conditions**

Tetra Tech, Inc. (ENGINEER) and CLIENT agree as follows:

**Section 1. Services.** ENGINEER shall provide CLIENT with the "Services" set forth in the Proposal under the following terms and conditions.

**Section 2. Billing and Payment.** CLIENT recognizes that time is of the essence with respect to payment of the ENGINEER's invoices, and that timely payment is a material part of the consideration of this AGREEMENT.

The CLIENT shall pay the ENGINEER for services performed in accordance with the rates and charges set forth herein. Invoices will be submitted by the ENGINEER from time to time, but no more frequently than every two weeks, and shall be due and payable within thirty (30) calendar days of invoice date. If the CLIENT objects to all or any portion of an invoice, the CLIENT shall so notify the ENGINEER within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice, if any, not in dispute.

The CLIENT shall pay an additional charge of one-and-one-half (1.5) percent (or the maximum percentage allowed by law, whichever is lower) of the invoiced amount per month for any payment received by the ENGINEER more than thirty (30) calendar days from the date of the invoice, except any portion of the invoiced amount in dispute and resolved in favor of the CLIENT. Payment thereafter shall first be applied to accrued interest and then to the principal unpaid amount. Payment of invoices is in no case subject to unilateral discounting or setoffs by the CLIENT.

Application of the percentage rate indicated above as a consequence of the CLIENT's late payments does not constitute any willingness on the ENGINEER's part to finance the CLIENT's operation, and no such willingness should be inferred. If the CLIENT fails to pay undisputed invoiced amounts within thirty (30) calendar days of the date of the invoice, the ENGINEER may at any time, without waiving any other claim against the CLIENT and without thereby incurring any liability to the CLIENT, suspend this AGREEMENT by fourteen (14) days written notice to the CLIENT until payment is restored to a current basis. Any suspension shall extend the schedule for performance by the ENGINEERS in a manner that is satisfactory to both the CLIENT and the ENGINEER.

Notwithstanding any termination of Services by ENGINEER for non-payment of invoices, CLIENT shall pay ENGINEER in full for all Services rendered by ENGINEER to the date of termination of Services plus all interest. CLIENT shall reimburse ENGINEER for all costs and expenses of collection, including reasonable attorneys' fees. ENGINEER's non-exercise of any rights or remedies, whether specified herein or otherwise provided by law, shall not be deemed a waiver of any such rights or remedies, nor preclude ENGINEER from the exercise of such rights or other rights and remedies under this instrument, or the law.

**Section 3. Delays.** In the event that the ENGINEER's work is interrupted due to causes beyond his or her control, the ENGINEER shall be compensated for the labor, equipment and other costs the ENGINEER incurs in order to maintain his or her workforce for the CLIENT's benefit during the interruption,

or--at the CLIENT's option--the various costs the ENGINEER incurs for demobilization and subsequent remobilization. Compensation to the ENGINEER shall be based upon the ENGINEER's prevailing fee schedule and expense reimbursement policy. Except for the foregoing provision, neither party shall hold the other responsible for damages or delays in performance caused by acts of God or other circumstances beyond the control of the other party, and which could not reasonably have been anticipated or prevented. Should such acts occur, the CLIENT and the ENGINEER shall utilize their best efforts to overcome the resulting difficulties and resume conduct of services called for herein as soon as reasonably possible. Delays within the scope of this provision that cumulatively exceed forty-five (45) calendar days shall, at the option of either party, make this AGREEMENT subject to renegotiation or termination.

**Section 4. Standard of Care.** ENGINEER's Services will be performed on behalf of and solely for the exclusive use of CLIENT for the purposes set forth in the Proposal and no others. CLIENT acknowledges that ENGINEER's Services require decisions which are not based upon science, but rather upon judgmental considerations. CLIENT, in accepting ENGINEER's Proposal, acknowledges the inherent risks to CLIENT and its property associated with the work described in the Proposal.

ENGINEER will perform its Services in accordance with generally accepted practices of Engineers and Scientists undertaking similar studies in the area, and in performing such Services, ENGINEER will observe that degree of care and skill as is generally exercised by members of such professions in the same locale acting under similar circumstances and conditions. CLIENT acknowledges that ENGINEER's Services will be rendered without any other warranty, expressed or implied, beyond ENGINEER's observance of such standard of care.

**Section 5. Insurance.** ENGINEER maintains Worker Compensation Insurance with respect to its employees with statutorily required limits. ENGINEER maintains public liability and property damage insurance policies. Certificates of Insurance evidencing such coverage will be provided to CLIENT, upon written request. CLIENT acknowledges that ENGINEER will not be liable to CLIENT for any loss, damage, cost or expense which, in the aggregate, are greater than the amounts of ENGINEER's insurance coverage limits, exclusions and conditions as set forth in such policies, except to the extent that ENGINEER is found by a final judgment of a Court of competent jurisdiction to have caused any loss, cost, damage or expense solely by reason of ENGINEER's gross negligence. Claims against ENGINEER based upon failure to perform in its professional acts in accordance with the Standard of Care required in Section 4 are limited by the provisions of Section 6.

**Section 6. Limitation of Professional Liability.** To the fullest extent permitted by law, the total liability, in the aggregate, of ENGINEER and Tetra Tech, Inc.'s officers, directors, employees, agents, and independent professional associates and consultants, and any of them, to CLIENT and any one claiming by, through or under CLIENT, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to ENGINEER's services, the project or this Agreement, from any cause or causes whatsoever, including but not limited to, the negligence, errors, omissions, strict liability, breach of contract, misrepresentation, or breach of warranty of ENGINEER or ENGINEER's officers, directors,

employees, agents or independent professional associates or consultants, or any of them, shall not exceed the total compensation received by ENGINEER under this Agreement, or the total amount of \$50,000, whichever is greater.

**Section 7. Documents.** All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents, data or information prepared by ENGINEER as instruments of Service, shall remain the sole property of ENGINEER. Documents will not, in whole or in part, be disseminated or conveyed to any other party, nor used by any other party in whole or in part, without the prior written consent of Engineer, except as required by law. All reports and other work prepared by ENGINEER for CLIENT shall be utilized solely for the intended purposes and Site described in the Proposal. ENGINEER will retain all pertinent records for a period of three (3) years following the submission of ENGINEER's report to CLIENT. Such records will be available to CLIENT upon request at ENGINEER's office during office hours on reasonable notice, and copies will be furnished by ENGINEER to CLIENT for the total cost of reproduction of the same.

**Section 8. Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms thereof through no fault of the terminating party. In the event of any termination, ENGINEER will be paid for all services rendered and reimbursable expenses incurred to the date of termination and in addition, all reimbursable expenses directly attributable to termination.

**Section 9. Governing Law; Severability; Assignment.** This agreement between ENGINEER and CLIENT as set forth in the Proposal and in these Terms and Conditions shall be governed by and enforceable in accordance with the law of the Commonwealth of Massachusetts. The provisions of these Terms and Conditions are severable. The invalidity of any part of these Terms and Conditions shall not invalidate the remainder of these Terms and Conditions nor the remainder of any portion thereof. CLIENT shall not assign any aspect of the agreement between CLIENT and ENGINEER except upon the prior written consent of ENGINEER.

**Section 10. Right of Entry.** CLIENT grants to ENGINEER the right, exercisable from time to time, of entry to the Site by ENGINEER, its agents, employees, consultants, contractors and subcontractors, for the purpose of performing all project related activities, including the making of surveys, test borings and other environmental investigations as described in the Proposal. Should CLIENT not own the Site, CLIENT warrants and represents by acceptance of the Proposal that it has authority and permission of Site owner and any Site occupant to grant ENGINEER this right of entry.

**Section 11. Control of Site.** CLIENT acknowledges that it is now and shall remain in control of the Site at all times. ENGINEER shall have no responsibility or liability for any aspect or condition of the Site, now existing or hereafter arising or discovered. ENGINEER does not, by its entry into an agreement with CLIENT, or its performance of services under any such agreements as set forth in the Proposal, assume any responsibilities or liability with respect to the Site; nor shall any liability or responsibilities be implied or inferred by reason of ENGINEER's performance of any work under the Proposal.

**Section 12. Subsurface Explorations.** ENGINEER will take reasonable precautions to minimize damage to the property from use of equipment, but have not included in the fee the costs of restoration of damage that may result from such operations. If ENGINEER is required to restore the property to its former condition, the cost will be added to its fee.

In addition, CLIENT recognizes that commonly used exploration methods (such as drilling borings, pushing or driving probes, or excavating trenches) involve an inherent risk. These exploration methods may penetrate through a stratigraphic unit bearing Hazardous Materials and serve as a connecting passageway between such stratigraphic unit and an uncontaminated stratigraphic unit or groundwater, thus potentially inducing cross-contamination. In accordance with current design, backfilling with grout or by other means is intended (but does not guarantee) to provide a seal against such a passageway. However, CLIENT recognizes that such a seal may be imperfect and that there is an inherent risk in drilling borings, pushing or driving probes, excavating trenches, or implementing other methods of exploration at or near a site contaminated by Hazardous Materials. Further, CLIENT recognizes that these are not the only risks which may be encountered, but are simply examples of consequences which cannot be anticipated or avoided in many cases, even through the exercise of the Required Standard of Care. CLIENT accepts these and all similar risks and releases ENGINEER from any and all liability that may be incurred as a result of the Services provided by ENGINEER, provided that such services were performed in accordance with the Required Standard of Care.

**Section 13. Information Provided by Others.** The ENGINEER shall indicate to the CLIENT the information needed for rendering of services hereunder, including but not limited to field survey information. The CLIENT shall provide to the ENGINEER such information as is available to the CLIENT. The CLIENT recognizes that it is impossible for the ENGINEER to assure the sufficiency of such information, either because it is impossible to do so, or because of errors or omissions which may have occurred in assembling the information. Accordingly, the CLIENT waives any claim against the ENGINEER, and agrees to defend, indemnify and hold the ENGINEER harmless from any claim or liability for injury or loss allegedly arising from errors, omissions, or inaccuracies in documents or other information provided to the ENGINEER by the CLIENT. Further, the CLIENT agrees to compensate the ENGINEER for any time spent or expenses incurred by the ENGINEER in defense of any such claim, with such compensation to be based upon the ENGINEER's prevailing fee schedule and expense reimbursement policy.

**Section 14. Compliance with Codes and Standards.** The ENGINEER's professional services shall be consistent with sound engineering practices and shall incorporate those federal, state and local laws, regulations, codes, policies and standards that are applicable at the time the ENGINEER rendered his or her services. In the event of a change in laws, regulations, et al., of which the ENGINEER becomes aware and which the ENGINEER believes affects work for the CLIENT, the ENGINEER shall inform the CLIENT of the change and its impact on work already done or to be done, fees and costs involved, and scheduling. If either the CLIENT or the ENGINEER believes the change requires a renegotiation of this AGREEMENT, both the CLIENT and the ENGINEER agree to bargain promptly and in good faith, to permit the ENGINEER to continue to meet the CLIENT's needs. If a renegotiated contract cannot be agreed to, the CLIENT agrees the



ENGINEER has an absolute right to terminate this Agreement. In any event, the CLIENT waives any claim against the ENGINEER, and agrees to defend, indemnify and hold the ENGINEER harmless from any claim or liability for injury or loss allegedly arising from the ENGINEER's failure to abide by federal, state and local laws, regulations, codes and standards that were not in effect or public policies announced at the time when the ENGINEER's otherwise would have incorporated their intent into the work. The CLIENT further agrees to compensate the ENGINEER for any time spent or expenses incurred by the ENGINEER in defense of any such claim, in accordance with the ENGINEER's prevailing fee schedule.

**Section 15. Monitoring of Construction.** CLIENT recognizes that unanticipated or changed conditions are likely to be encountered during construction. CLIENT agrees to indemnify ENGINEER from any claims arising from these unanticipated or changed conditions unless CLIENT agrees to retain ENGINEER to monitor construction, and ENGINEER agrees to assign to the monitoring function persons qualified to observe and report on the quality of work performed by contractors, et al. CLIENT recognizes that construction monitoring is a technique employed to minimize the risk of problems arising during construction. Provision of construction monitoring by ENGINEER is not insurance, nor does it constitute a warranty or guarantee of any type. In all cases, contractors, et al., shall retain responsibility for the quality of their work and for adhering to plans and specifications, including responsibility for maintaining legal methods of transport and appropriate locations for disposal of materials. Should CLIENT for any reason not retain ENGINEER to monitor construction, or should CLIENT unduly restrict ENGINEER's assignment of personnel to monitor construction, or should ENGINEER for any reasons not perform construction monitoring during the full period of construction, ENGINEER shall not have the ability to provide a complete service. Should ENGINEER for any reasons not have the ability to perform a complete service, and thus not have the capability for adequate control of implementation of the complete engineering function, CLIENT waives any claim against ENGINEER, and agrees to indemnify, defend and save ENGINEER harmless for any claim or liability for injury or loss arising from problems during construction that allegedly result from findings, conclusions, recommendations, plans or specifications developed by ENGINEER. CLIENT also agrees to compensate ENGINEER for any time spent and expenses incurred by ENGINEER in defense of any such claim, with such compensation to be based upon ENGINEER's prevailing fee schedule and expense reimbursement policy relative to recovery of direct project expenses.

**Section 16. Legal Actions.** All legal actions by either party to this Agreement against the other party for breach of this Agreement, failure to perform under this Agreement in accordance with an applicable standard of care, indemnity, or contribution (however denominated) shall be barred two years from the day after the date on which the party bringing the action knew or reasonably should have known of the facts giving rise to the cause or causes of action; but in no event may any such claim be filed, commenced or otherwise asserted more than two years from the date on which the ENGINEER completes its services. Nothing in this paragraph shall be construed in any way to extend the time period for the filing of a legal action under any applicable statute of repose.

General T&C

