

Tiverton Planning Board



343 Highland Road • Tiverton, Rhode Island 02878

(401) 816-5631

NOTICE OF AMENDED FINAL PLAN DECISION

Application: Bayview Condominiums
Amended Final Plan

Owner/Applicant: Northborough Realty Holdings, LLC
4 Courthouse Lane, #16
Chelmsford, MA 01824-1732

And

Northborough Recovery Services LLC
4 Courthouse Lane, #16
Chelmsford, MA 01824-1732

Site Location: 994-1000 Main Road
Plat 119 / Lots 121 & 122
General Commercial and R-60 Zoning Districts
Pedestrian Friendly Destination District
(Subsequently adopted)

Background:

The Northborough Realty Holdings, LLC a/k/a Bayview Condominiums ("Bayview") Final Plan Decision was recorded on October 9, 2008 in Book 1212, Page 52. The Final Plan Decision granted authority to record the Final Plans. The site plans approved by the Planning Board with its Final Plan Decision were titled "Final Plan Submittal for 'Bayview' 994-1000 Main Road, Tiverton, Rhode Island." Prepared by George E. Block, Jr., P.E. of Tibbetts Engineering Corp., dated 10-22-2007. The approved Final Plans were not, and due to multiple extensions of time to record the Final Plans, have not been recorded.

The Final Plans approved by the Planning Board in 2008 show a 52-unit condominium complex located primarily on Assessors Plat 119, Lot 121. Assessors Plat 119, Lot 122 was designated to host an underground storm water runoff basin from the adjacent lot, Assessors Plat 119, Lot 121.

Since the Final Plan Decision was issued, there were statutory tolling periods in place allowing the developer to delay construction and pertinently, the Rhode Island Department of Environmental Management (“RIDEM”) revised its stormwater management regulations.

In 2020 the Applicant sought RIDEM approval of the stormwater management plan as presented in its Final Plan. RIDEM, however, required the Applicant to change the location and layout of the project’s stormwater facilities to comply with the new regulations. More specifically, the RIDEM required an above-ground detention basin that will occupy almost the entirety of Assessors Plat 119, Lot 122. These changes accordingly necessitated a change to the previously approved Final Plan. The changes to the stormwater runoff management plan were prepared for the Applicant by Todd R. Greene, P.E. of GZA GeoEnvironmental in plans titled “Stormwater Management Plan for Bayview Townhouses, 994-1000 Main Road, Tiverton, R.I., June 2020.” Mr. Greene’s plans consisting of 17 sheets.

The Applicant requested that the changes, as required by the RIDEM and as presented in Mr. Greene’s June 2020 plans, to the Final Plan be administratively approved by the Tiverton Town Planner/Administrative Officer. The Planner/Administrative Officer refused to administratively approve the changes asserting that the changes were not minor and therefore required approval of the Planning Board. This difference in opinion eventually resulted an administrative appeal to the Newport County Superior Court in an action captioned *Northborough Realty Holdings, LLC v. Tiverton Zoning Board of Review Sitting as the Board of Appeals*, NC-2021-201. In that appeal, Judge Licht held in part that the matter would be remanded to the Planning Board with instructions “to consider Northborough’s [stormwater management plan] amendment to its Final Plan Approval as a minor change.” *Northborough Realty Holdings, LLC v. Tiverton Zoning Board of Review Sitting as the Board of Appeals*, NC-2021-201, Decision filed June 8, 2022, Pg. 31.

Amended Final Plan

As required by Judge Licht’s decision in *Northborough Realty Holdings, LLC v. Tiverton Zoning Board of Review Sitting as the Board of Appeals*, NC-2021-201, the matter was remanded to the Tiverton Planning Board to consider the changes to the stormwater management plan as a minor amendment to the Final Plan.

The Applicant appeared before the Planning Board on August 2, 2022, for review and vote on the minor amendment to Final Plan.

Following a brief discussion of the history of the matter and the requested amendment, there was a substantive discussion of what conditions could be adopted if the amendment was granted. Specifically, concerns about the above-ground detention basin being an attractive nuisance were raised as well as concerns about outward appearance of the fencing around the basin and landscaping that could be done to screen the stormwater infrastructure. These concerns were borne out of the fact that Assessors Plat 119, Lot 122, where the detention basin will be located, borders Main Road and without measures being taken the detention basin will be an eyesore and present possible hazards.

The Applicant was receptive to the concerns of the Board and worked jointly to compose a condition that would address these concerns.

Decision:

Following discussion of the matter, Chairman Stuart Hardy made the following motion:

That the Tiverton Planning Board finds the proposed modifications to the “Final Plan Submittal for ‘Bayview’ 994-1000 Main Road, Tiverton, Rhode Island,” prepared by George E. Block, Jr., P.E. of Tibbetts Engineering Corp., dated 10-22-2007, consisting of 25 sheets, which modifications are shown in the “Stormwater management Plan for Bayview Townhouses 994-1000 Mian Road, Tiverton, R.I.,” prepared by Todd R. Greene, P.E. of GZA GeoEnvironmental, Inc., dated June 2020, consisting of 17 sheets, represent a minor modification which can be administratively approved and are consistent with the “Final Plan Submittal for ‘Bayview’ 994-1000 Main Road, Tiverton, Rhode Island,” prepared by George E. Block, Jr., P.E. of Tibbetts Engineering Corp., dated 10-22-2007, and with the Final Plan decision approved June 3, 2008, with a written decision dated September 30, 2008 and recorded at Book 1212, Page 52.

Further that the “Final Plan Submittal for ‘Bayview’ 994-1000 Main Road, Tiverton, Rhode Island,” prepared by George E. Block, Jr., P.E. of Tibbetts Engineering Corp., dated 10-22-2007, and the Final Plan decision of June 3, 2008, be amended by the “Stormwater management Plan for Bayview Townhouses 994-1000 Mian Road, Tiverton, R.I.,” prepared by Todd R. Greene, P.E. of GZA GeoEnvironmental, Inc., dated June 2020 and that the “Final Plan Submittal for ‘Bayview’ 994-1000 Main Road, Tiverton, Rhode Island,” prepared by George E. Block, Jr., P.E. of Tibbetts Engineering Corp., dated 10-22-2007, and the “Stormwater management Plan for Bayview Townhouses 994-1000 Mian Road, Tiverton, R.I.,” prepared by Todd R. Greene, P.E. of GZA GeoEnvironmental, Inc., dated June 2020, be recorded as the Amended Final Plan.

Finally, the Applicant shall return to the Planning Board at the beginning of, or prior to, construction with a landscape plan including screening around the detention basin on Assessor Plat 119, Lot 122 and shall accept reasonable modifications.

Ms. Eva seconded the Motion. The Motion passed unanimously with a vote of 7-0-0. Voting in favor were: Rosemary Eva, Janice Gomes, Stuart Hardy, Christine Shea, Peter Bramante, Adam Rapoza, and Chris Shriver.

Stuart B Hardy
Stuart Hardy
Planning Board Chairman

22 August 2022
Date of Notice

August 2, 2022
Planning Board
Decision

- The following fees must be paid prior to recording:

\$52.00 Recording of the Decision

\$2,058.00 Recording of Plans and Documents *Plan Book 28, page 24
and Plan Book 28, page 49*

A party wishing to appeal this decision must do so on or before 20 days from the date of recording by contacting the Town of Tiverton Zoning Department.

Expiration of approval. The final approval of a major subdivision or land development project expires one (1) year from the date of approval with the right to extend for one (1) year upon written request by the applicant, who must appear before the Planning Board for the annual review, unless, within that period, the plat or plan has been submitted for signature and recording as specified in R.I. Gen. Laws § 45-23-64. Thereafter, the Planning Board may, for good cause shown, extend the period for recording for an additional period.

RECEIVED FOR RECORD
Tiverton, R.I.
JOAN B. CHABOT TOWN CLERK
AUG 23 2022 02:08P