



Glen Lile, Supervisor
Susanne M. Courtade, Clerk
Tracey Bartlett, Treasurer

Matt Courtade, Trustee
Bryan Marrow, Trustee
Dale McAllister, Trustee
Leroy "Butch" Strait, Trustee

**REGULAR MEETING OF THE EAST BAY CHARTER TOWNSHIP
PLANNING COMMISSION**

TUESDAY ~ May 5, 2009 ~ Township Hall ~ 6:30 pm

1. Call Meeting to Order.
2. Roll Call.
3. Review for Conflict of Interest
4. Approval of the Agenda.
5. Approval of the Minutes. (04/09/2009)
6. Public Input (Other than agenda items).
7. **Reports.**
 - A. Township Board.
 - B. Appeals Board.
 - C. Planners Report
 - D. Z.A. Report
 - E. Attorneys Report
 - F. Correspondence
8. **New Business:**
 - A. Public Hearings:
 1. Essential Public Services: Section(s) 204, 303, 401 thru 415, and 421. Public Hearing and Recommendation to the Township Board.
 - B.
 1. Ralph Bergsma, East Bay Estates; Request for 3rd Extension of Approved Site Plan #11-06.
 2. Draft Ordinance Officially Establishing the Planning Commission Under the Terms of the New Planning Enabling Act; Review and Set Public Hearing Date.
 3. Draft Amendment for Extensions of Site Plans, Special Land Uses and PUDs; Review and Set Public Hearing Date.
 4. Draft Amendment for Hearings and Application Escrow Deposit Amount; Review and Set Public Hearing Date.
 5. Draft Amendment Regarding Final Approvals of PUDs; Review and Set Public Hearing Date.
9. **Old Business**
10. **Adjournment**
 - **Planning Commissioners; if you are unable to attend this meeting please notify the Office of Planning & Zoning at 947-8681.**
 - *Note: If you are planning to attend this meeting and are disabled requiring any special assistance, please notify the Township Clerk by calling at (231) 947-8647 as soon as possible.*

HEARING PROCEDURES ON BACK OF AGENDA



JOINT MEETING OF THE EAST BAY CHARTER TOWNSHIP
PLANNING COMMISSION AND TOWNSHIP BOARD

Wednesday, April 9, 2009 6:30 p.m.

East Bay Charter Township Hall

1965 N. Three Mile Road

Traverse City, MI 49686

Present: *Planning Commission Members* Judy Nemitz, Ted Hentschel, Jim McDowell, Robert Tubbs, Tracey Bartlett, Mindy Walters, and Mike Nickels (arrived at 6:35pm)
Township Board Members Brian Marrow, Sue Courtade, Matthew Courtade, Glen Lile, Butch Strait,

Absent and Excused: Board Member Dale McAllister

Also Present: Township Attorney Jim Young; Township Planner Jay Kilpatrick, Recording Secretary, Anne Wendling; Zoning Administrator Leslie Couturier

One guest was in attendance.

1. **Call to Order:** Chairman Lile called the meeting to order at 6:30 p.m.
2. **Roll Call:** Roll was called by the Recording Secretary.
3. **Review for Conflict of Interest:** There were no conflicts of interest reported.
4. **Approval of the Agenda:** A motion was made by Tubbs and seconded by Bartlett to approve the agenda as presented. The motion carried without opposition.
5. **Approval of the Minutes:** Nemitz made a motion to approve the Regular Minutes of March 3, 2009, the Site Review Minutes of March 12, 2009 and the Special Planning Commission Meeting minutes of March 12, 2009. McDowell seconded the motion and the motion carried without opposition.
6. **Public Input:** None at this time.
7. **New Business:**
 1. **Discussion of separation of roles between Township Board and Planning Commission**

Township Attorney Young gave his perspective on Township Boards and Planning Commissions based on his years of experience in the municipal legal field. He stated his opinion that when townships reach a certain size, it is often beneficial to allow the Planning Commissions to handle all zoning decisions that the law permits. The Township Board always has a lot to do and it saves the Board from wearing too many hats. Young stated that the best option is to have a well-trained planning commission. The Township Board would still hold control by appointing the members of the planning commission and have ultimate control by its authority over township expenses which create a check and balance system. He stated that it make more sense to allow a well-trained planning commission to be allowed to make decisions that they are trained to make. Further, Young recommended that the Planning Commission be dedicated to handling all planning decisions that are non-financial in nature and that the board set requirements pertaining to the amount of training and attendance for a planning commission member.

Township Planner Kilpatrick generally agreed with Young and stressed that having a separation made sense as long as there is communication between the two groups and training for commissioners. Lile asked for input from all members present and ideas such as precedent in other municipalities, types of training, appointed officials making these important decisions, and a timeline for developers. Young stated that a well trained planning commission is more likely to come to a correct legal decision and if detailed findings of facts are completed, there will be fewer lawsuits and the township could ultimately save money. Kilpatrick and Young addressed the training of commissioners by stating that in-house training was easy for them to do personally, and, in addition there are programs offered through the state.

Attorney Young wrapped up the ideas of the commissioners and board members and discussed a few concerns. He stated that one main discussion should take place regarding whether the master plan reflects the ordinance. After holding an informal poll, most board members and commissioners decided to go forward and allow the planning commission to discuss the details of a new ordinance. There was a consensus that the planning commission and township board should have regular periodic meetings.

2. Discussion of Township Board involvement in Special Land Use and Planned Unit Developmental applications

Discussed in combination with agenda item #1 above.

3. Discussion of Capital Improvement Plan

S. Courtade, a member of the CIP subcommittee, handed out a synopsis of the CIP which was focused on acquiring the Black School property. The CIP proposed to move the school building off of the property and use the schoolhouse as a heritage center and children's library. There could also be a pavilion joining the two buildings. Additionally, the property would be improved as a trail head destination including the safe routes to school, with non- motorized trails. Possible grant sources for acquiring the property were discussed. Walters, a member of the CIP subcommittee, asked if the boards wanted to go ahead with grants and a possible township fund match. Tubbs, also a member of the subcommittee, added that the Black School property may be a valuable acquisition for the township since it is in the village center. Concerns regarding other fiscal responsibilities were discussed. Township Attorney Young said that the township could pursue an option to purchase if it did not violate any ordinance or the law. Lile commented that S. Courtade could check with the rotary charities grant writer regarding the cost of grant writing and Lile would talk further with the owners of the property. Planner Kilpatrick said that before a project on that property could move much further, a much more detailed design of the property and a cost breakdown of the proposed project would be needed before grant writing could begin. Kilpatrick also stated that there may be tax benefits to the owner if a portion of the property was gifted to the township. Kilpatrick also stated that the owners may be open to allowing for a right of first refusal on behalf of the township. It was agreed that Lile would contact the owners and discuss some options on behalf of the township to acquire the property.

Couturier discussed CIP training on May 21st and would like to ask the trainer to come to the township. There was discussion to invite other townships and share the cost of the training. The boards had a short discussion on waterfront property and then all agreed that the town boards should hold a joint meeting twice a year since it was good for communication and discussion. Both Young and Kilpatrick stated they consider the East Bay board and planning commission to be top notch in comparison with others in the state.

8. **Adjournment:** Chairman Lile and Chairman Nickels adjourned the meeting at 8:30 pm.

8.A.1.

ESSENTIAL PUBLIC SERVICES

Glen Lile, Supervisor
Susanne M. Courtade, Clerk
Tracey Bartlett, Treasurer



Matt Courtade, Trustee
Bryan Marrow, Trustee
Dale McAllister, Trustee
Leroy "Butch" Strait, Trustee

Notice to the Residents of East Bay Township

Please take notice that the East Bay Charter Township Planning Commission will hold a public hearing at a regular meeting on Tuesday, May 5, 2009 at 6:30 pm., in the Township Hall at 1965 Three Mile Road, Traverse City, Michigan, for the purpose of considering the following amendments to the East Bay Charter Township Zoning Ordinance:

Section 204 of the East Bay Charter Township Zoning Ordinance is to be amended to establish a distinction between major and minor essential public services. Section 303, Land Use Table and Sections 401 through 415 and 421 are to be amended to add "Major Essential Public Service Facility" as a Special Land Use in the respective zoning districts of the Township. Article VI of the Zoning Ordinance is to be amended to establish review and approval standards for Major Essential Public Service Facilities. Section 1406 is to be amended to add definitions for Essential Public Service Facility, Major and Essential Public Service Facility, Minor.

Copies of the proposed Zoning Ordinance amendments and the existing Zoning Ordinance are available for public viewing during regular business hours at the Office of Planning and Zoning, Township Hall, 1965 Three Mile Road, Traverse City, Michigan. Written Comments will be received until the night of the hearing.

If you are planning to attend this hearing and are handicapped requiring any special assistance, please notify the Township Clerk by calling at (231) 947-8647 as soon as possible.

Mike Nickels, Chairman
East Bay Charter Township
Planning Commission


Leslie Couturier
Office of Planning and Zoning
(231) 947-8681

Record Eagle: Please publish this notice once on 04/19/2009. Thanks!

Williams & Works

MEMORANDUM

TO: Planning Commission
East Bay Charter Township

FROM: Jay Kilpatrick, AICP 

DATE: April 22, 2009

RE: Regulating Essential Service Facilities

This memo suggests adoption of the attached modification to the Zoning Ordinance in anticipation of a potential sizeable private utility substation that may be proposed shortly. Such facilities are referred to as “essential services” and are currently regulated (minimally) under Section 204. The existing language essentially permits them without regulation in all districts, but subject to Planning Commission approval. Today the ordinance provides no guidance for the Planning Commission and, without some clear standards; the community would be in a very weak position to impose standards, much less to deny such a facility.

The proposed amendment would broaden Section 204 to distinguish between routine essential service facilities – like water and sewer lines, pump stations, underground or overhead wires, etc. and larger, more imposing facilities, which would be regarded as Major Essential Service Facilities. All essential service facilities would be permitted in all districts, but the Major facilities would be treated as special land uses, subject to screening standards and other requirements as set forth in a new Section 628.

The attached amendment is rather lengthy, only because it is necessary to make a minor adjustment in each zoning district to recognize Essential Service Facilities in each section. However, the key new provisions in the amendment are Section 204, Section 628 and the definitions at Section 1406.

At the May 5th meeting, the proposal is scheduled for public hearing. It is recommended the Planning Commission review the proposed amendments, consider any comments received at the hearing and recommend the adoption of the proposed amendment to the Township Board.

c: Leslie Couturier
Zoning Administrator

East Bay Charter Township
Grand Traverse County
Ordinance # _____

AN ORDINANCE TO AMEND SECTION 204, ESSENTIAL PUBLIC SERVICES; SECTION 303, LAND USE TABLE; SECTION 401, LOW DENSITY RESIDENTIAL DISTRICT; SECTION 402, MODERATE DENSITY RESIDENTIAL DISTRICT, SECTION 403, HIGH DENSITY RESIDENTIAL DISTRICT; SECTION 404, RURAL RESIDENTIAL DISTRICT; SECTION 405 LAKES AREA DISTRICT; SECTION 406, BOARDMAN RIVER DISTRICT; 407 NATURAL AREA DISTRICT; SECTION 408 MANUFACTURED HOUSING COMMUNITY DISTRICT; SECTION 409, VILLAGE CENTER; SECTION 411, LOCAL BUSINESS DISTRICT; SECTION 412 REGIONAL BUSINESS DISTRICT; SECTION 413, PROFESSIONAL OFFICE DISTRICT; SECTION 415, INDUSTRIAL DISTRICT; SECTION 421, AGRICULTURAL-RURAL DISTRICT; SECTION 627, RESERVED; SECTION 628, MAJOR ESSENTIAL PUBLIC SERVICE FACILITIES; SECTION 629 LAUNDRY AND DRY CLEANING ESTABLISHMENTS; SECTION 1406 DEFINITIONS, E, OF THE EAST BAY CHARTER TOWNSHIP ZONING ORDINANCE.

EAST BAY CHARTER TOWNSHIP HEREBY ORDAINS:

1. Section 204, is hereby amended to read as follows:

SECTION 204 ESSENTIAL SERVICE FACILITIES

1. **Intent.** It is the intent of this Zoning Ordinance to permit routine essential service facilities in any zoning district because routine essential service facilities are likely to have a minimal adverse impact on surrounding properties. Major Essential Service Facilities are those utility-type public service facilities which, because of their size or nature, are more likely to have an adverse impact on surrounding properties. Depending on their size, nature, and potential adverse impact on surrounding properties, Major Essential Service Facilities may be allowed in any zoning district, subject to the provisions of this Ordinance. All Major Essential Services Facilities shall be subject to site plan and Special Land Use review in accordance with Article VI of this Ordinance.
2. **Relationship to Franchise.** Essential services shall be permitted as authorized under any franchise in effect within the Township, subject to regulation as provided in any law of the State of Michigan, or in any ordinance of the Township. It is the intent of this section to ensure conformity of all structures and uses to the requirements of this Zoning Ordinance, wherever such conformity shall not conflict with the specific requirements of such franchise, state legislation, or Township Ordinance. In the absence of any conflict, the Zoning Ordinance shall prevail.
3. **Routine Essential Service Facilities.** The following are considered routine essential service facilities and are permitted in all zoning districts:

- a. Underground utility facilities such as water mains, sewer mains and lift stations, electrical, gas, telephone, and cable television and broadband distribution lines and associated structures, transformers, switches and utility boxes that are designed to serve primarily East Bay Township and any adjacent community, subject to any franchise agreement with the Township.
 - b. Above ground utility facilities and equipment buildings or cabinets that occupy no more than 200 square feet and are no more than twelve (12) feet in height.
 - c. Overhead pole-mounted electrical, telephone, cable television and broadband distribution lines and associated structures, transformers, switches and utility boxes designed to primarily serve East Bay Township and any adjacent community, subject to any franchise agreement with the Township, and providing the height above grade of such facilities does not exceed fifty (50) feet. With new developments, utility easements will be approved as part of a subdivision plat, condominium, or site plan.
 - d. Any other facilities similar and scale and scope to the above, as determined by the Zoning Administrator, shall be considered a routine essential service facility.
 - e. Essential Service Facilities other than those described in subparagraphs a through d of this section shall be considered Major Essential Service Facilities, subject to the provisions of Section 628.
4. Routine Essential Service Facilities Review and Approval. Installation of new Routine Essential Service Facilities shall be subject to review and approval of the Zoning Administrator and issuance of a Land Use Permit pursuant to Section 803. Replacement facilities and regular maintenance shall not require issuance of a new land use permit.

2. Section 303, Table 3-1, Table of Land Uses is hereby amended to read as follows:

SECTION 303 LAND USE TABLE

(Revised 12/8/08)

Table 3-1 Table of Land Uses summarizes the applicable regulatory standards for the land uses governed under this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this ordinance.

EAST BAY TOWNSHIP

Table 3-1 Uses Permitted by Right and Special Land Use Permit

(R=Use by Right; SLU=Use Permitted as Special Land Use; * Indicates districts in which certain uses do not require site plan review)

| USES | LDR | MDR | HDR | MHC | RR | LB | VC | RB | PO | IND | AG | LA | BR | NA |
|---|-----|-----|-----|-----|-----|-----|-----|-------|-------|-----|-----|-----|-----|-----|
| Accessory Bldg. ≤ footprint principal structure | R* | R* | R | R | R* | R | R | R | R | R | R* | R* | R* | R* |
| Accessory Bldg. > footprint principal structure | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU |
| Accessory Uses, Rel. to uses permitted by right | | | | | | R* | | R* | R | R | R | R | R | R |
| Adult Businesses | | | | | | | | SLU | | | | | | |
| Agricultural Service Establishment | | | | | | | | | | | SLU | | | |
| Airport | | | | | | | | | | | SLU | | | |
| Animals | | | | | R | | | | | | R | | | |
| Antique Store | | | | | | | R | R | | | | | | |
| Appliance, repair and sales | | | | | | R | R | | | | | | | |
| Architecture, Design & Engineering | | | | | | | | | | R | | | | |
| Bakery or Confectionery Shop | | | | | | | R | | | | | | | |
| Bank | | | | | | R | R | | R | | | | | |
| Bed & Breakfast | | SLU | SLU | SLU | R | | SLU | SLU | | | SLU | SLU | | |
| Billboards | | | | | | | | SLU | | | | | | |
| Boat, Motor Sales & Repair | | | | | | | | | | | | SLU | | |
| Book Store | | | | | | | R | | | | | | | |
| Building, Electrical, Mechanical & Plumbing | | | | | | | SLU | | | R | | | | |
| Cabin Courts | | | | | | | | | | | | | R | |
| Camps and Campgrounds | | | | | | | | | | | | | R | SLU |
| Car Wash, connected to public sewer | | | | | | R | SLU | SLU | | | | | | |
| Cemeteries | SLU | | | | | | | | | | | | | |
| Civic Club | | | | | | | | | | | | | | |
| Combinations of Uses | | | | | | | SLU | R/SLU | R/SLU | | | | | |
| Commercial agriculture | | | | | | | | | | | | | | |
| Commercial Establishments w/ Drive-Thru | | | | | | SLU | | SLU | | | R | | | |
| Commercial Recreation, assoc. w/ residential | | | | | | | | | | | | | | |
| Commercial Recreation, skiing, golf | | | | | | | | | | | | | | |
| Construction Equip. Sales & Supplies | | | | | | SLU | | | | R | | | | |

Table 3-1 Uses Permitted by Right and Special Land Use Permit

(R=Use by Right; SLU=Use Permitted as Special Land Use; * Indicates districts in which certain uses do not require site plan review)

| USES | LDR | MDR | HDR | MHC | RR | LB | VC | RB | PO | IND | AG | LA | BR | NA |
|---|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Convenience Store, excluding fuel service | | | | | | | | R | | | | | | |
| Day Care, Group 7-12 children | SLU | SLU | SLU | SLU | SLU | | R | | | | SLU | | | |
| Day Care Center or Child Care Center | | | SLU | SLU | | SLU | SLU | | | | | | | |
| Drug Store | | | | | | | R | R | | | | | | |
| Dwelling, 2-fam. in Windcrest Hills, Earlington Hills and Chateau Heights Plats | R | | | | | | | | | | | | | |
| Dwelling, multiple | | R | R | R | | | R | SLU | | | | | | |
| Dwelling, single family detached | R* | R* | R* | R* | R* | SLU | R | | | | R* | R* | R* | R* |
| Education Facilities | SLU | SLU | SLU | SLU | SLU | | SLU | | | | SLU | | | |
| Essential Service Facility, Routine | R | R | R | R | R | R | R | R | R | R | R | R | R | R |
| Essential Service Facility, Major Fabrication & Assembly | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU |
| Farm, operations and farm buildings | | | | | | | | | | R | | | | |
| Fitness Center | | | | | | | SLU | SLU | | SLU | | | | |
| Floral Shop | | | | | | | R | | | | | | | |
| Forestry & Wildlife Management | | | | | | | | | | | R | | R | R |
| Foster Care, Adult (7-12 residents) | | SLU | SLU | SLU | SLU | | | | | | SLU | | | |
| Foster Care, Adult (13+ residents) | | | SLU | SLU | | SLU | | | | | | | | |
| Galleries, art, craft and hobby stores | | | | | | | R | | | | | | | |
| Gasoline Station | | | | | | R | R | | | | | | | |
| Gift & Souvenir Shop | | | | | | | R | R | | | | | | |
| Golf Courses, and related accessory uses | R | | | | | | | | | | R | | | |
| Gravel Pit | | | | | | | | | | | SLU | | | |
| Greenhouses & Nurseries | | | | | | | R | | | | R | | | |
| Grocery Store, without gasoline pump | | | | | | R | R | R | | | | | | |
| Grouped Housing, multi-family | | R | R | R | | | | | | | | | | |
| Hardware Store | | | | | | R | R | | | | | | | |
| Home Occupation | R | R | R | R | R | | R | R | | | R | R | R | R |
| Hotels & Motels | | | | | | | SLU | | | | | | | |
| Industrial Clustered Sub-Division | | | | | | | | | | R | | | | |
| Jewelry Store | | | | | | | | R | | | | | | |
| Keeping of Horses | | | | | | | | | | | | R | R | R |
| Kennels & Animal Clinic | | | | | | | | | | | R | | | |
| Laboratories | | | | | | | | | | R | | | | |
| Laundry & Dry Cleaning Establishment | | | | | | SLU | | SLU | | | | | | |
| Lodging and Boarding House | | | R | R | R | | | | | | | | | |

Table 3-1 Uses Permitted by Right and Special Land Use Permit

(R=Use by Right; SLU=Use Permitted as Special Land Use; * Indicates districts in which certain uses do not require site plan review)

| USES | LDR | MDR | HDR | MHC | RR | LB | VC | RB | PO | IND | AG | LA | BR | NA |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Manufactured Housing Community | | | | R | | | | | | | | | | |
| Manufacturing & Processing | | | | | | | | | | R | | | | |
| Marinas, uses incidental thereto | | | | | | | | R | | | | | | |
| Mini-Warehouse, Self-Store 8K sq ft, or less | | | SLU | SLU | SLU | SLU | | | | R | SLU | SLU | | |
| Mini-Warehouse, more than 8K sq ft | | | | | | | | | SLU | R | | | | |
| Mortuary | | | | | | | | | | | | | | |
| Neighborhood Local Business | | | | | | | | | | | | SLU | | |
| Nursing Home | | | R | R | | | | | | | | | | |
| Office Clustered Sub-Division | | | | | | | | | R | | | | | |
| Outdoor storage, up to 4 Recreation Vehicles | | | | | R | | | | | R | R* | R* | R* | R* |
| Packaging, Canning & Bottling | | | | | | | | | | | | | | |
| Party, Drugs and Notions Store | | | | | | R | | R | | | | | | |
| Permanent Docks | | | | | | | | | | | | R | | |
| Personal Services | | | | | | R | R | R | | | | | | |
| Personal Wireless Communication Facilities | | | | | SLU | SLU | | SLU | SLU | SLU | SLU | SLU | SLU | SLU |
| Photographic, developing, sales & supplies | | | | | | | | R | | | | | | |
| Places of Public Assembly, Large and Small | SLU | SLU | SLU | SLU | SLU | R | R | R | | | SLU | | | |
| Planned Unit Development | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU | SLU |
| Printing, Publishing & Allied Industries | | | | | | | | | | R | | | | |
| Professional Offices | | | | | | R | R | R | R | R | | | | |
| Public Parks | R | R | R | R | R | | | R | | | R | R | R | R |
| Public Recreational Facility, excluding carnival | | | | | | | | R | | | | | | |
| Publicly Owned Bldgs, exchanges, util. Offices | | | | | | | | | R | | | | | |
| Purchase of Development Rights (PDR) | | | | | R | | | | | | R | | R | R |
| Recreation Facilities | | | | | | | | R | | | | | | |
| Recreation, accessory to industry | | | | | | | | | | R | | | | |
| Research, Development & Testing | | | | | | | | | | R | | | | |
| Restaurant | | | | | | R | R | R | | | | | | |
| Roadside Stands | | | | | | | | | | | | | | |
| Seasonal Merchandise Sales | | | | | | | R | | | | | | | |
| Shore Improvements | | | | | | | | | | | | | R* | |
| Shore Structures | | | | | | | | | | | | | R* | |
| Showroom for Office & Building Trades | | | | | | R | | | | R | | | | |

Table 3-1 Uses Permitted by Right and Special Land Use Permit

(R=Use by Right; SLU=Use Permitted as Special Land Use; * Indicates districts in which certain uses do not require site plan review)

| USES | LDR | MDR | HDR | MHC | RR | LB | VC | RB | PO | IND | AG | LA | BR | NA |
|--|-----|-----|-----|-----|----|----|----|----|----|-----|----|----------------|----|----------------|
| Sporting, Recreation & Bicycle Shop | | | | | | | | R | | | | | | |
| Studio for performing and graphic arts | | | | | | | R | | | | | | | |
| Subdivision, Plat or Condominium – Residential | R | R | R | R | R | | | | | | R | R ¹ | R | R ¹ |
| Subdivision – Cluster, Plat or Condominium – Residential | R | R | R | R | R | | | | | | R | R ¹ | R | R ¹ |
| Subdivision, Plat or Condominium – Commercial | | | | | | R | | R | | | | | | |
| Subdivision - Cluster, Plat or Condominium – Commercial | | | | | | R | | R | | | | | | |
| Subdivision, Plat or Condominium – Industrial | | | | | | | | | | R | | | | |
| Subdivision – Cluster, Plat or Condominium – Industrial | | | | | | | | | | R | | | | |
| Subdivision, Plat or Condominium – Office | | | | | | | | | R | | | | | |
| Subdivision – Cluster, Plat or Condominium – Office | | | | | | | | | R | | | | | |
| Temporary Docks | | | | | | | | | | | | | | |
| Township Uses | SLU | | | | | | | R | | | | | R | R |
| Uses Similar to Uses Permitted by Right | | | | | | | | | | | | | | |
| Utility Sub-Stations | | | | | | | | | | | | | | |
| Vehicle Repair Facilities | | | | | | | | | | | | | | |
| Video Store | | | | | | | | | | | | | | |
| Walkways, elevated, open or enclosed | | | | | | | | | | | | | | |
| Warehousing, products produced on premises | | | | | | | | | | | | | | |
| Wearing Apparel, Accessory & Shoe Store | | | | | | | | | | | | | | |

¹ Within the Forest Lakes Overlay District, residential subdivisions consisting of two or more residential building sites or two or more residential structures under any lawful form of ownership, including but not limited to ownership subject to or created under the Land Division Act or the Michigan Condominium Act, whether undertaken as cluster or traditional form shall be treated as special land uses Subject to the terms of Article VI, pursuant to Section 231.

3. Section 401 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

4. Section 402 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

5. Section 403 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

6. Section 404 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

7. Section 405 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

8. Section 406 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

9. Section 407 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

10. Section 408 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing

of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

11. Section 409 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

12. Section 411 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

13. Section 412 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

14. Section 413 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

15. Section 415 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

16. Section 421 is hereby amended to add “Essential Service Facility, Routine” to the listing of permitted uses and to subparagraph 2; and “Essential Service Facility, Major” to the listing of Special Land Uses and to subparagraph 3, which shall read as follows, in alphabetical order:

Essential Service Facility, Major, subject to the provisions of Section 628

17. Section 627 is hereby amended to read as follows:

SECTION 627 LAUNDRY AND DRY CLEANING ESTABLISHMENT

1. **DEFINITIONS:** A commercial establishment providing cleaning, dry cleaning and laundry services on-site for businesses and residents.
2. **REGULATIONS AND CONDITIONS.**
 - a. The minimum lot size shall be one (1) acre and the minimum lot width shall be two hundred (200) feet.
 - b. All exterior lighting shall be equipped with cutoff fixtures to prevent light from casting off the site.
 - c. All storage tanks or other facilities used to store hazardous, toxic, explosive or flammable substances shall be equipped with appropriate containment structures or equipment to prevent any migration of such substances into the groundwater or surface waters of the Township.
 - d. A landscaped buffer not less than twenty-five (25) feet in width shall be provided along the front lot line and along any side or rear lot line that abuts lands zoned or used for residential purposes.
 - e. All signs shall be in compliance with the provisions of **Section 215** of this Ordinance.
 - f. All off-street parking shall be in compliance with **Article VII** of this Ordinance.
 - g. Landscaping and Buffering shall be provided in accordance with **Section 229** of this Zoning Ordinance.

18. Section 628 is hereby amended to read as follows:

SECTION 628 MAJOR ESSENTIAL SERVICE FACILITIES

- A. **Definition.** Any essential service facility as defined herein that is not a routine essential service facility.
- B. **Regulations and Conditions.**
 1. Any above ground major essential service facility shall be fully secured from unauthorized entry either by construction of the facility itself or through fencing which meets the requirements of this ordinance.
 2. As a condition of approval of a special land use permit, the Planning Commission may require remote monitoring of major essential service facilities that may be vulnerable damage or disruption.
 3. Major essential service facilities located out-of-doors shall be screened from view from adjoining properties and from public road rights-of-way with evergreen plantings planted at such intervals as to provide an opaque screen within one-

year of planting. Equipment buildings intended to house major essential service facilities, such as well houses, pump buildings or equipment shelters, shall be constructed of face brick, decorative masonry, cement board or wood lap siding designed to resemble nearby structures. Provided, that a side of such equipment building that is not visible from a public right-of-way, may be constructed of common cement block or metal panels, if further screened with evergreen landscaping.

4. All above ground major essential service facilities shall be located in conformance with the yard, lot width and lot area standards of this ordinance. With the exception of elevated water storage facilities, major essential service facilities shall not exceed the maximum height requirements of the zoning district in which they are located.
5. A major essential service facility shall be considered an accessory use to any other permitted or special land use, if it occupies no more than ten (10) percent of the parcel which is shared with the principal use. A major essential service facility located on an otherwise vacant parcel shall be considered the principal use of that parcel.
6. An above ground major essential service facility which is fenced or which is housed in an equipment building shall include a sign placard of not more than two square feet which shall indicate the owner or operator's name, address and emergency contact information. In addition, such facilities may include any required hazard warning signage.

19. Section 1406 is hereby amended to add the following defined terms in alphabetical order

Essential Service Facility: Buildings, grounds and equipment associated with the provision to the public of natural gas, electricity, potable water, wastewater conveyance and treatment, stormwater conveyance and treatment, telephone, cable television, broadband digital communication and related services.

Essential Service Facility, Major: Any essential service facility as defined herein that is not a routine essential service facility.

Essential Service Facility, Routine: An essential service facility as defined herein which is not typically regarded as imposing on, or detrimental to, neighboring property; including, but not limited to:

1. Underground utility facilities such as water mains, sewer mains and lift stations, electrical, gas, telephone, and cable television and broadband distribution lines and associated structures, transformers, switches and utility boxes that are designed to serve primarily East Bay Township and any adjacent community, subject to any franchise agreement with the Township.
2. Above ground utility facilities and equipment buildings or cabinets that occupy no more than 200 square feet and are no more than twelve (12) feet in height.

3. Overhead pole-mounted electrical, telephone, cable television and broadband distribution lines and associated structures, transformers, switches and utility boxes designed to primarily serve East Bay Township and any adjacent community, subject to any franchise agreement with the Township, and providing the height above grade of such facilities does not exceed fifty (50) feet.

20. Severability.

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

21. Effective Date.

This Ordinance shall become effective eight (8) days after publication.

CHARTER TOWNSHIP OF EAST BAY

Date: _____

By: _____
Glen Lile, Supervisor

Date: _____

By: _____
Susanne M. Courtade, Clerk

Published Date: _____, 2009

Effective Date: _____, 2009

8.B.1.

EAST BAY ESTATES

REQUEST FOR 3RD EXTENSION



PROPERTY DESIGN GROUP
3741 Prouty Road
Traverse City, MI 49686



(231) 946-8455 ♦ Fax (231) 946-8455
♦ rbergama.pdg@charter.net

April 8, 2009

Leslie Couturier, Deputy P/Z
East Bay Charter Township
1965 N. 3 Mile Road
Traverse City, MI 49686

Re: East Bay Estates Condominium Development

Dear Leslie,

This letter is for the request of an extension of the site plan approval for an additional year for the East Bay Estates development project located on Vanderlip Road, near the intersection of Vanderlip and Hammond Roads. No Modifications to the approved plans are proposed.

The request is because of the same constraints that required previous extensions:

- a) Stafford Hall project, East of our project will not be moving forward and that project is the source of our municipal water and sewer tap-in connections.
- b) Current housing market conditions are not favorable brought on by the collapse of the housing bubble and its financial implications.

Sincerely,

Ralph Bergsma, General Manager
Property Design Group, L.L.C

5/16/06

Public Input closed at 7:30 p.m.

Board discussion ensued, reviewing conditions recommended by Jay, and concerns voiced by guests. Discussions of privacy fence, paved connector access, the 35 ft radius suggested by Fire Marshall. Ralph, Ted and Kevin discussed the concerns of residential neighbors over privacy, suggesting natural landscaping would be preferable to fencing.

During this discussion it was noted by Mr. Dore that the hours of would be Sunday-Thursday until 12 midnight, Friday and Saturday until 1 a.m.

A motion was made by Hentschel/Bergsma to approve Site Plan Review 10-06, adding approval with conditions 1-7. Also 2 additional comments, which address Fire Department stipulation of alignment of connector to east, and a revised landscape plan which will include natural screening in back of property for neighboring residents. The motion was approved without opposition.

Break 8:03 p.m. – 8:10 p.m.

**G. Site Plan Review 11-06; R. Clark Associates for Property Design Group LLC:
East Bay Estates Condominiums: Public Hearing and Action.**

Ralph Bergsma, Kevin Endres, and Russ Clark present.

Kevin Endres and Ralph Bergsma recused themselves from board for this Public Hearing and Action.

This site plan review seeks approval for a proposed residential development consisting of 38 detached single family traditional condominium dwellings. The property is zoned MD and is permitted under Section 820 of Zoning Ordinance.

Mr. Clark spoke first, with a power point presentation of highlighting characteristics of the development, which included topography, unique natural features of site, drainage, trail system, trees taken down to be used as chips for trail. There will be no paved path or sidewalks, no through traffic (private roads); common lighting at mailboxes, half of site will be dedicated to open space. Public water and sewer will be used, connecting to Stafford Hall development.

Chairman Nickels opened public comment at 8:30 p.m.

Questions were raised per guests regarding drainage on property, the potential of property owners to accidentally cross-over onto adjacent property. Questions were answered per Mr. Bergsma and Endres.

Public comment closed at 8:35 p.m.

Jay Kilpatrick spoke to board and guests regarding site plan. He highlighted memo to board dated 65-9-06. In memo he gave overview of background of proposed site plan, under Section 820 of Township Ordinance. Jay addressed the completeness of the submittal of site plan

review, attaching 9 comments. Comments # 3, 4, and 5 were specifically addressed in discussion. Jay's memo then states recommendation to the board approval of site plan with conditions attached. These conditions numbered 1-5 were discussed by board.

Board discussion ensued, regarding several issues, emergency access, landscaping, who will be builder. Statement made that one builder will be used for entire project. Mike questions whether there will be a building for maintenance equipment; Ralph noted that maintenance will be contracted to outside source. Phasing was discussed, as well as Master Deed and Bylaws.

A motion was made by Nickels/Hentschel to approve Site Plan Review 11-06 with conditions 1-5. The motion was passed without opposition.

H. Trail Corridor Connections; Policy Discussion.

Township Supervisor Glen Lile requested of board to discuss regional trail connection, specifically connection to Tart Trail System. He specifically would like the board to review how this could be accomplished, and how to develop and maintain. Holly suggested that board should begin to try to put things in place for discussion/consideration. Board would like to be pro-active in their approach, concentrating initially on 3 Mile Rd as connector. Jay suggested to board to look to the G.T. County Road Commission as to what their plans are in East Bay Township.

Land Use Permits were discussed in terms of necessity to review need for permit, fees attached, regarding decks , 30 inches in height, and those > 30 inches in height. Consensus was reached that Leslie will address and take care of with Mr. Lile.

Board member Holly Hawkins requested of board that a meeting between East Bay Township Board and East Bay Planning Commission be established and scheduled, as this as been suggested and needed for the last year or so. Board agreed, meeting will be set up.

Chairman Nickels adjourned meeting at 9:27 p.m.

Kathy Rienas
Recording Secretary

5/1/07

PC minutes
5-1-2007
page four

Friend made a motion to address inconsistencies in Section 219 of the Zoning Ordinance. Motion was supported by Hentschel. Motion passed unanimously.

Chair Nickels called for a break in the meeting break at 7:55pm.
Chair Nickels reconvened the meeting at 8:00pm.

- B. *Site Plan Review 11-06 Request for Extension East Bay Estates* Bergsma excused himself from proceedings. Endres made motion to extend Site Plan 11-06. Hentschel seconded the motion. Motion passed unanimously.
- C. *Sewage Treatment Capacity:* Hawkins spoke of a code pending that may require sprinklers in homes and possibly water and sewer capacities may have to be increased. Endres stated that he doesn't think the boundaries should be increased or decreased. Friend made motion that Kilpatrick memo on the subject dated April. 24, 2007 be forwarded to the township board. Bergsma seconded the motion. Motion passed unanimously.
- D. *Electronic Billboard.* Hentschel stated that no more new billboards will be allowed on state highways per Jennifer Granholm. Attorney opinion letter from Graham, Elsenheimer, Wendling and Kazim states that the billboard is legal where placed on Three Mile Road and US 31. Discussion ensued as to whether the Planning Commission should anticipate future conditions on the billboards. Bergsma made a motion to look at possible future use regulations on electronic billboards. Endres seconded the motion. Nickels, Endres, Friend, Hawkins, Tubbs support. Hentschel opposed. Motion passed.
- E. *Lakes Overlay; Work Session-* Kilpatrick wanted guidance regarding his memo to the Planning Commission dated April 30, 2007 (attached). Discussion pertaining to inclusion of lakes, state and federal agencies and their ordinances went on between audience and planning commission members. Some wanted to know how Soil Erosion Plans would figure into this. Kilpatrick stated that attorney would look into Section 91 of the Natural Resources and Environmental Protection Act and see if the Township really needs to adopt anything like it. Questions regarding # 8 and # 9 of Kilpatrick's memo were discussed. Kilpatrick stated that regulation of these would be easy with a site plan, but overall, difficult to enforce.
- F. *Master Plan Review and Update Discussion:* Planning commission members discussed a memo from Jay Kilpatrick dated April 30, 2007 (attached). The need to look at the Smart Growth Readiness Assessment

5/6/08

- B. *Appeals Board:* Hentschel reported that there were two appeals - one for Traverse Realty and the other on the Minkoff garage. Hentschel stated that the Minkoff appeal was denied.
- C. *Planners Report:* Planner Jay Kilpatrick talked about the temporary use of RV's on lots and explained that Couturier was unsure of action on that matter since the townships have no permits for such a situation. Kilpatrick said that that the township may want to regulate such permits. Township Attorney Wendling said he could help with the RV issue and has dealt with it before in other municipalities. Kilpatrick stated that he met with Lile and Sousa regarding Ordinance 109 – and hopes to have a report ready for the Planning Commission in June.
- D. *ZA Report:* None at this time.
- E. *Attorneys Report:* None at this time.
- F. *Correspondence:* In packets.

8. New Business:

- A. *Ralph Bergsma: Site Plan Review 11-06 for East Bay Estates; Request for 2nd Extension*

Bergsma explained that his project on Vanderlip Road north of Hammond Road is being stalled because the water and sewer was going to be supplied through the Stafford Hall project which is also stalled. Bergsma is requesting a second extension of the site plan. McDowell moved and Tubbs seconded a motion to grant a second site plan extension for East Bay Estates. The motion carried unanimously.

- B. *Theresa Carey: Three Mile Road Improvements*

Carey addressed the commissioners regarding proposed improvements along Three Mile Road. Homeowners along that stretch of road feel that the Planning Commission should be involved so that a drastic change does not occur. Carey and others attended a road commission meeting on the subject of Three Mile Road and left feeling as if they were not listened to. Nickels asked Kilpatrick if the road commission could bring


8.B.2.

DRAFT ORDINANCE TO ESTABLISH THE PLANNING COMMISSION

Williams & Works

MEMORANDUM

TO: Planning Commission
East Bay Charter Township

FROM: Jay Kilpatrick, AICP, PCP 

DATE: April 22, 2009

RE: Ordinance Establishing the Planning Commission

This memo suggests consideration of an amendment to the Zoning Ordinance to officially establish the Planning Commission. Section 11 of the Michigan Planning Enabling Act (Act 33 of 2008) (MPEA) provides that a Township Planning Commission must be established by ordinance. Section 81 (3) of that same Act provides for the continued validity of preexisting Planning Commissions if a new or amending ordinance is adopted to officially establish the Planning Commission not later than July 1, 2011.

In discussing this with Leslie last fall, we were not able to determine how or when the current Planning Commission was first authorized. It may be that an ordinance was adopted to form the Planning Commission, although this is unlikely. The former Township Planning Act (Act 168 of 1959) provided that Township Planning Commissions would be established "by resolution."

Therefore, it is necessary for the Township Board to adopt an ordinance officially establishing the Planning Commission under the terms of the new Planning Enabling Act. This could take the form of a free-standing general law ordinance, or it may be adopted as an amendment to the Zoning Ordinance. Article VIII, Administration, of the Zoning Ordinance outlines the authority of the Zoning Administrator, so that would be a logical place for language establishing the Planning Commission.

The attached amendment to Article VIII has been prepared to comply with the MPEA and to continue in existence the current Planning Commission, but with reference to the new statutory language. At the May meeting, it is suggested that we discuss this draft with the Township Attorney and, if acceptable, schedule the amendment for hearing at the June meeting.

c Leslie Couturier
Zoning Administrator

East Bay Charter Township
Grand Traverse County
Ordinance # _____

AN ORDINANCE TO AMEND ARTICLE VIII TO ADD A NEW 809; PLANNING COMMISSION AND TO CONFIRM THE ESTABLISHMENT UNDER THE MICHIGAN PLANNING ENABLING ACT, PUBLIC ACT 33 OF 2008, MCL 125.3801, ET SEQ., OF THE EAST BAY CHARTER TOWNSHIP PLANNING COMMISSION; PROVIDE FOR THE COMPOSITION OF THAT PLANNING COMMISSION; PROVIDE FOR THE POWERS, DUTIES AND LIMITATIONS OF THAT PLANNING COMMISSION; AND REPEAL ANY ORDINANCE OR PARTS OF ORDINANCES OR RESOLUTIONS IN CONFLICT WITH THIS ORDINANCE.

EAST BAY CHARTER TOWNSHIP HEREBY ORDAINS:

1. Article VIII Administration is hereby amended to add the following Section 809:

SECTION 809 PLANNING COMMISSION

1. Scope, Purpose and Intent. This ordinance is adopted pursuant to the authority granted the Township Board under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., to establish a Planning Commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this ordinance and any future amendments to this ordinance. The purpose of this ordinance is
 - a. to provide that the East Bay Charter Township Board confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the East Bay Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq.,
 - b. to establish the appointments, terms, and membership of the Planning Commission;
 - c. to identify the officers and the minimum number of meetings per year of the Planning Commission; and
 - d. to prescribe the authority, powers and duties of the Planning Commission.
2. Establishment. The Township Board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the East Bay Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq. The East Bay Township Planning Commission shall have 7 members. Members of the East Bay Charter Township Planning Commission as of the effective date of this Ordinance shall, except for an ex officio member whose remaining term on the Planning Commission shall be limited to his or her term on the Township Board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for

planning commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

3. Appointments, Terms and Qualifications and Ex Officio Member
 - a. Appointments. The Township Supervisor, with the approval of the Township Board by a majority vote of the members elected and serving, shall appoint all Planning Commission members, including the ex officio member. The Planning Commission members, other than an ex officio member, shall serve for terms of 3 years each. A Planning Commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.
 - b. Qualifications. Planning commission members shall be qualified electors of the Township, except that one Planning Commission member may be an individual who is not a qualified elector of the Township. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the Township, in accordance with the major interests as they exist in the Township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the Township to the extent practicable.
 - c. Ex Officio Member. One member of the Township Board shall be appointed to the Planning Commission as an ex officio member. An ex officio member has full voting rights. An ex officio member's term on the Planning Commission shall expire with his or her term on the Township Board. No other elected officer or employee of the Township is eligible to be a member of the Planning Commission.
4. Removal. The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.
5. Compensation. The Planning Commission members may be compensated for their services as provided by Township Board resolution.
6. Officers and Committees. The Planning Commission shall elect a chairperson, vice-chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the Planning Commission is not eligible to serve as chairperson. The term of each office shall be 1 year, with opportunity for reelection as specified in the Planning Commission bylaws. The Planning Commission may also appoint advisory committees whose members may include members of the Planning Commission and others that are not members of the Planning Commission.
7. Bylaws, Meetings and Records. The Planning Commission shall adopt bylaws for the transaction of business and which shall provide for regular meetings. The Planning Commission shall hold at least 4 regular meetings each year, and shall by resolution determine the time and place of the meetings. Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning Commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to Planning Commission members at least 48 hours before the meeting. The business that

the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, et seq. The Planning Commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

8. **Annual Report.** The Planning Commission shall make an annual written report to the Township Board concerning its operations and the status of the planning activities, including recommendations regarding actions by the township board related to planning and development.
 9. **Authority to Make Master Plan.** Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and other applicable planning statutes, the Planning Commission shall make a master plan as a guide for development within the township's planning jurisdiction. Final authority to approve a master plan or any amendments thereto shall rest with the Planning Commission unless the Township Board passes a resolution asserting the right to approve or reject the master plan.
 10. **Zoning Authority.** All powers, duties, and responsibilities provided for Zoning Boards or Zoning Commissions by the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., or other applicable zoning statutes are transferred to the East Bay Township Planning Commission. All powers, duties and responsibilities provided for the Planning Commission under the East Bay Charter Township Zoning Ordinance are hereby explicitly granted to the East Bay Charter Township Planning Commission
 11. **Capital Improvements Program.** To further the desirable future development of the Township under the master plan, the Planning Commission shall prepare and recommend to the Township Board, a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following 6-year period.
 12. **Subdivision and Land Division Recommendations.** All powers, duties and responsibilities provided for the Planning Commission in the East Bay Charter Township Subdivision Control Ordinance, being Ordinance 80-105Z, are hereby explicitly granted to the East Bay Charter Township Planning Commission.
 13. **Repeal.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. The resolution or ordinance establishing the East Bay Township Planning Commission under the Township Planning Act (being Act 168 of 1959) are hereby repealed.
2. **Severability:** If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

8.B.3.

DRAFT AMENDMENT FOR EXTENSION OF SITE PLAN REVIEWS, SPECIAL LAND USES, AND PUDs

EAST BAY CHARTER TOWNSHIP

ORDINANCE NO. _____ OF 2009

AN ORDINANCE AMENDING SUBSECTION 637.12 OF THE EAST BAY TOWNSHIP ZONING ORDINANCE REGARDING THE DURATION OF APPROVALS OF SPECIAL LAND USE PERMITS AUTHORIZING A PUD AND THE PROCEDURE FOR AN EXTENSION

THE CHARTER TOWNSHIP OF EAST BAY ORDAINS:

Section 1. Amendment of Subsection 637.12

Subsection 637.12 of the East Bay Township Zoning Ordinance is hereby amended to read in its entirety as follows:

12. EXTENSION AND TERMINATION:

- a. Automatic termination and extension. A Special Land Use Permit authorizing a PUD shall expire two (2) years from the date of final approval. Upon written request stating the reasons therefore, the Planning Commission shall make a recommendation to extend the Special Land Use Permit authorizing a Planned Unit Development for an additional one (1) year period, however no more than three (3) extensions for a special land use permit authorizing a PUD shall be granted for any reason under this Ordinance. In order to receive a recommendation for an extension, the evidence must show the following:
 - i. The conditions necessitating the delay in the construction and completion of the project are reasonably beyond the control of the applicant.
 - ii. The requirements and standards, including those of the zoning ordinance that are reasonably related to the development, have not changed.
 - iii. Development or redevelopment in the proximity to the approved PUD and/or PUD phase has not resulted in changed conditions impacting the site.
 - iv. There has not been a change in state or federal law, local charter, or other local ordinance prohibiting the construction or further construction of the approved project.
- b. An application for an extension of a Special Land Use Permit authorizing a Planned Unit Development must be filed at least 60 (sixty) days prior to

the expiration of the original Special Land Use Permit authorizing a planned unit development or the expiration of any extension previously approved by the township, whichever is applicable. The application form for requesting an extension shall be provided by the township and can be obtained from the township zoning administrator or deputy zoning administrator. An application fee for an extension is required and shall be non-refundable. The township board shall by resolution, establish the amount of the application fee for the renewal. The renewal is only applicable to the property subject to the originally approved Special Land Use Permit authorizing the Planned Unit Development.

- c. Any such recommendation for an extension is subject to reasonable conditions requested by the planning commission, if adopted by the Township Board of Trustees, or by the Township Board of Trustees, including, if necessary, the implementation of a new or additional performance guarantee requirement pursuant to section 830 of the East Bay Township Zoning Ordinance.
- d. **OTHER MEANS OF TERMINATION OF A SPECIAL LAND USE PERMIT AUTHORIZING A PUD.** A Special Land Use Permit authorizing a PUD may be canceled by written agreement executed by the owner or authorized agent of the owner of the land to which it pertains and the Zoning Administrator or Deputy Zoning Administrator at any time when the development and the use of the land is in conformance with all provisions of this ordinance which would apply if such Special Land Use Permit had not been issued. The Special Land Use Permit may be rescinded at any time by the Township Board of Trustees for violation of the Special Land Use Permit by the applicant, its successors, agents or assigns after written notice to the current owners and occupiers of the PUD area has been provided and after a hearing before the Township Board of Trustees on the alleged violation. Upon termination of a Special Land Use Permit authorizing a PUD, the zoning requirements shall revert to the current requirements for the zoning district designated for the property.

Section 2. Severability

If any section, clause or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Section 3. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

TOWNSHIP OF EAST BAY

By: _____
Glen Lile
Its: Supervisor

By: _____
Susanne Courtade
Its: Clerk

EAST BAY CHARTER TOWNSHIP

ORDINANCE NO. _____ OF 2009

AN ORDINANCE AMENDING SUBSECTION 601.6 OF THE EAST BAY TOWNSHIP ZONING ORDINANCE REGARDING THE DURATION OF APPROVALS OF SPECIAL LAND USE PERMITS AND THE PROCEDURE FOR AN EXTENSION

THE CHARTER TOWNSHIP OF EAST BAY ORDAINS:

Section 1. Amendment of Subsection 601.6

Subsection 601.6 of the East Bay Township Zoning Ordinance is hereby amended to read in its entirety as follows:

6. EXPIRATION OF SPECIAL LAND USE PERMITS; EXTENSION.

- a. An approved Special Land Use Permit shall expire two (2) years following approval by the Planning Commission. Upon written request stating the reasons therefore, the Planning Commission shall extend a Special Land User Permit for an additional one (1) year period if the evidence shows the following:
 - i. The conditions necessitating the delay in the construction and completion of the project are reasonably beyond the control of the applicant.
 - ii. The requirements and standards, including those of the zoning ordinance that are reasonably related to the development, have not changed.
 - iii. Development or redevelopment in the proximity of the approved Special Land Use Permit has not resulted in changed conditions impacting the site.
 - iv. There has not been a change in state or federal law, local charter, or other local ordinance prohibiting the construction or further construction of the approved project.
- b. An application for an extension of a Special Land Use Permit authorizing a Planned Unit Development must be filed at least 60 (sixty) days prior to the expiration of the original Special Land Use Permit or the expiration of any extension previously approved by the township, whichever is applicable. The application form for requesting an extension shall be provided by the township and can be obtained from the township zoning

administrator or deputy zoning administrator. An application fee for an extension is required and shall be non-refundable. The township board shall by resolution, establish the amount of the application fee for the renewal. The renewal is only applicable to the property subject to the originally approved Special Land Use Permit.

- c. Any such recommendation for an extension is subject to reasonable conditions requested by the planning commission, including, if necessary, the implementation of a new or additional performance guarantee requirement pursuant to section 830 of the East Bay Township Zoning Ordinance.
- d. If a Special Land Use Permit expires pursuant to subsection a above, no work pursuant to a Special Land Use Permit may be undertaken until a new Special Land Use Permit is obtained from the Planning Commission following the procedures contained in the zoning ordinance for a new Special Land Use Permit.

Section 2. Severability

If any section, clause or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Section 3. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

TOWNSHIP OF EAST BAY

By: _____
Glen Lile
Its: Supervisor

By: _____
Susanne Courtade
Its: Clerk

EAST BAY CHARTER TOWNSHIP

ORDINANCE NO. _____ OF 2009

AN ORDINANCE AMENDING SECTION 830, FIRST PARAGRAPH AND SUBSECTIONS 1, 3 AND 7 OF THE EAST BAY TOWNSHIP ZONING ORDINANCE REGARDING PERFORMANCE GUARANTEE REQUIREMENTS

THE CHARTER TOWNSHIP OF EAST BAY ORDAINS:

Section 1. Amendment of Section 830, paragraph 1.

Section 830, paragraph 1 of the East Bay Township Zoning Ordinance is hereby amended to read in its entirety as follows:

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and health, safety and welfare of the residents of East Bay Township, and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Township Planning Commission or Zoning Board of Appeals, may require the applicant to obtain a performance guarantee as set forth herein. The purpose of the performance guarantee is to:

- a. Insure completion of improvements connected with the proposed development as required by this Ordinance, including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls and landscaping and/or
- b. restore the land to its condition prior to the approval of the variance, land use permit, special land use permit or special land use permit authorizing a PUD.

Section 2. Amendment of Subsection 830.1.

Subsection 830.1 of the East Bay Township Zoning Ordinance is hereby amended to read in its entirety as follows:

1. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit *subject to the call of the Township in the Township's exclusive discretion* in the amount of the cost of the variance, land use permit, special land use permit or special land use permit authorizing a PUD as determined by the township and verified by the East Bay Township Office of Planning and Zoning.

Section 3. Amendment of Subsection 830.3.

Subsection 830.3 of the East Bay Township Zoning Ordinance is hereby amended to

read in its entirety as follows:

3. In the event a performance guarantee is required, the applicant shall also furnish such authorization as is required by the Township to permit the Township to enter upon the subject property to complete the improvements authorized by the variance, land use permit, special land use permit or special land use permit authorizing a PUD *or to restore the land to its condition prior to the approval of the variance or aforementioned permits* in the event of a default by the applicant under this ordinance.

Section 4. Amendment of Subsection 830.7.

Subsection 830.7 of the East Bay Township Zoning Ordinance is hereby amended to read in its entirety as follows:

7. **DEFAULT, PERFORMANCE GUARANTEE.**
 - a. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by East Bay Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements, *at any particular stage of the development or to restore the land to its condition prior to the approved development*, through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements *or restore the land to its condition prior to the approved development*. If the performance guarantee is not sufficient to allow the Township to complete the improvements *or restore the land to its condition prior to the approved development* for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing of the improvements *or restore the land to its condition prior to the approved development* exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements *or restore the land to its condition prior to the approved development*, any amounts remaining after said completion shall be applied first to the Township administrative costs in completing the improvements *or restoring the land to its condition prior to the approved development* with any balance remaining being refunded to the applicant. At the time the performance guarantee is provided to the Township *and prior to the issuance of a land use permit, special land use permit or special land use permit authorizing a planned unit development or the extension of any of the aforementioned permits, the applicant and the Township shall enter into a written agreement incorporating the terms and conditions of the aforementioned permits in the terms under which the performance guarantee will be applied to the development and/or refunded or cancelled, as applicable. Such contract shall be*

drafted in a manner acceptable to any financial institution providing the performance guarantee, provided such contract does not materially compromise the ability of the Township to utilize the performance guarantee pursuant to this ordinance.

- b. An applicant shall not be found to be in default except after a hearing before the planning commission or zoning board of appeals, as applicable and only if the planning commission or zoning board of appeals determines that the applicant has failed to do the following:
 - i. Complete an improvement or improvements pursuant to the requirements of the variance, land use permit, special land use permit or special land use permit authorizing a PUD, as applicable and any required conditions thereto.
 - ii. Conduct meaningful progress for more than one year toward the completion of one or more of the improvements authorized by the variance, land use permit, special land use permit or special land use permit authorizing a PUD. For purposes of this subsection “meaningful progress” means the completion of a major phase of the development, including, by way of example, but not limited to, the completion of the installation of water, sewer, electrical systems, roads inclusive of pavement, curbs, and drainage, soil erosion control measures, and drainage systems inclusive of applicable retention and detention ponds and/or systems.

Section 5. Severability

If any section, clause or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Section 6. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

TOWNSHIP OF EAST BAY

By: _____
Glen Lile
Its: Supervisor

By: _____
Susanne Courtade
Its: Clerk

EAST BAY CHARTER TOWNSHIP

ORDINANCE NO. _____ OF 2009

AN ORDINANCE AMENDING SUBSECTION 820.10 OF THE EAST BAY TOWNSHIP ZONING ORDINANCE REGARDING THE DURATION OF AN APPROVED SITE PLAN, ITS TERMINATION, AND THE PROCEDURE FOR AN EXTENSION

THE CHARTER TOWNSHIP OF EAST BAY ORDAINS:

Section 1. Amendment to Subsection 820.10

Subsection 820.10 of the East Bay Township Zoning Ordinance is hereby amended to read in its entirety as follows:

10. TERMS OF APPROVAL OF THE SITE PLAN, DURATION, TERMINATION AND EXTENSION:
 - a. An approved site plan shall be valid for a period of two (2) years after the date of approval. Upon written request stating the reasons therefore, the Planning Commission shall extend a site plan for an additional one (1) year period if the evidence shows the following:
 - i. The conditions necessitating the delay in the construction and completion of the project are reasonably beyond the control of the applicant.
 - ii. The requirements and standards, including those of the zoning ordinance that are reasonably related to the development, have not changed.
 - iii. Development or redevelopment in the proximity to the approved site plan has not resulted in changed conditions impacting the site.
 - iv. There has not been a change in state or federal law, local charter, or other local ordinance prohibiting the construction or further construction of the approved project.
 - b. An application for an extension of a site plan must be filed at least 60 (sixty) days prior to the expiration of the original site plan or the expiration of any extension previously approved by the township, whichever is applicable. The application form for requesting an extension shall be provided by the township and can be obtained from the township zoning

administrator or deputy zoning administrator. An application fee for an extension is required and shall be non-refundable. The township board shall by resolution, establish the amount of the application fee for the renewal. The renewal is only applicable to the property subject to the originally approved site plan.

- c. If a site plan expires pursuant to subsection a above, no work pursuant to a site plan may be undertaken until a new site plan is obtained from the Planning Commission following the procedures contained in the zoning ordinance for a new site plan.
- d. Any site plan approved for an extension is subject to reasonable conditions established by the Planning Commission including, if necessary, the implementation of a new or additional performance guarantee requirement pursuant to section 830 of the East Bay Township Zoning Ordinance. Appeals of a decision by the Planning Commission to either extend or not extend an approved site plan and land use permit may be taken to the Zoning Board of Appeals in the same manner with regard to site plan approval decisions as provided in subsection 12 of this section 820.

Section 2. Severability

If any section, clause or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Section 3. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

TOWNSHIP OF EAST BAY

By: _____
Glen Lile
Its: Supervisor

By: _____
Susanne Courtade
Its: Clerk


8.B.4.

DRAFT AMENDMENT FOR HEARINGS AND APPLICATION ESCROW DEPOSIT AMOUNT

Williams & Works

MEMORANDUM

TO: Planning Commission
East Bay Charter Township

FROM: Jay Kilpatrick, AICP 

DATE: April 21, 2009

RE: Hearings and Applicant Escrow Deposit Accounts

This memo suggests a modification to Section 831 pertaining to hearings to provide the Township with better leverage to recover review expenses from applicants.

The Township Board has established a schedule of application fees and escrow deposit accounts to support the costs of publication, meetings, and the professional fees of the attorney, engineer and planner related to particular applications for site plan approval, special land uses, rezonings, PUDs or other approvals. The application fees are relatively modest and are non-refundable. The escrow deposit accounts are funded initially by the applicant and as costs are incurred in processing the application, those costs are drawn from the escrow. If the deposit account is depleted, the applicant is advised to replenish it before any permit can be issued. When work on the application is completed, any remaining balance in the account is returned to the applicant.

In some cases, the amount in the escrow deposit account can be insufficient to support all costs. This is especially true when the applicant submits incomplete materials or makes changes to an application as it is under consideration. This problem is aggravated by the fact that the professional consultants that serve the Township bill on a periodic basis and there can be a lag of several weeks from the time the services are rendered and when a billing is issued. On some occasions, the Township has realized when the billings are rendered and applied to the various escrow accounts that additional funds are needed. Normally, a land use permit will not be issued until the Zoning Administrator or Treasurer has determined that all potential charges have been billed and the escrow account is sufficiently funded. So, for an approved project, the land use permit provides the needed leverage to assure that development pays its own way.

Although this process creates administrative and bookkeeping challenges for the Township and for its consultants, it is preferable to simple General Fund support for these expenses; because, without the applicant's submittal, most of these costs would not be incurred.

Planning Commission
April 21, 2009
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The process works fairly well, but there is one point in the process where the Township can be vulnerable to having to absorb consulting or publishing costs. That point in time is once the hearing notice has been published. At that point, the Township is obligated to hold the hearing as it has published its notice, regardless of whether there are funds in the escrow account. In the case of a denial, the Township will have lost any leverage to collect any arrearage. The only way to be protected in this situation would be for the Planning Commission to table the hearing until the escrow is brought current. The current ordinance, however, does not contemplate this procedure and since the hearing is subject to public notice, I recommend that specific authorization for this procedure be added to Section 831.

The attached draft amendment has been prepared to accommodate this and at the May meeting we should discuss this with the Attorney and determine whether to schedule a hearing on the amendment.

c: Leslie Couturier
Zoning Administrator

8.B.5.

DRAFT AMENDMENT REGARDING FINAL APPROVAL OF PUDS

Williams & Works

MEMORANDUM

TO: Planning Commission
East Bay Charter Township

FROM: Jay Kilpatrick, AICP

DATE: April 21, 2009

RE: Final Approvals of PUDs



At the joint meeting of the Township Board and Planning Commission on April 8th, we discussed the unique approval process for Planned Unit Developments (PUDs). In East Bay Charter Township, Planned Unit Developments are treated as special land uses, regulated under Article VI, Section 637. However, unlike any other special land use, final approval of a PUD rests with the Township Board, not the Planning Commission. This necessitates a two-step public hearing and approval process with the Planning Commission making a recommendation to the Township Board.

Planned Unit Developments are complex projects involving elements that may be particularly designed to deal with special site challenges, land use conflicts or design elements. Because the ordinance gives final approval authority to the Township Board and the Board may follow the recommendations of the Planning Commission or depart from them, it is important that the Board be as familiar with the case as the Planning Commission is. Furthermore, a PUD, by definition, will modify some (or many) of Zoning Ordinance provisions as they apply to the project, so it is important that the decision-makers understand any implications of those modifications. The applicant normally will work with the Township staff and planner to craft their proposal and ultimately must work through the Planning Commission review process to refine the submittal for the recommendation. The two-step process requires that this effort be repeated when the submittal is placed before the Board.

Certainly, the Township Board is fully capable of addressing these issues, but doing so requires that the Board essentially duplicate the efforts of the Planning Commission in reviewing the case. Because these are invariably important and complex decisions and the Board has final approval authority, its review must not be regarded as a "rubber stamp" or merely as a check and balance of the Planning Commission's work. It must have completed sufficient due diligence itself to assure that its decision is sound.

Township Attorney, Jim Young, has recommended that the Township consider an amendment to Section 637 to treat PUDs like any other special land use. This would place final approval authority with the Planning Commission, streamline the approval process and relieve the Board of the detailed effort to comprehensively address the application, while dealing with all the other issues associated with the overall governance of the Township. This would also make the decision-making process more transparent and eliminate the risk of project supporters or opponents playing one board off against the other.

On the other hand, if there is interest in keeping final approval of PUDs at the Township Board level, the Township might consider treating PUDs as a rezoning, rather than as a special land use. This would, likely reduce the number of PUD requests as a rezoning decision is even more cumbersome and subject to the right of referendum. As such, it is an even more uncertain process. Developers may either elect to avoid this risk by keeping their developments within the confines of the permitted and special land uses, or they may look elsewhere for development opportunities.

As your planning consultant, I would recommend that the Township give serious consideration to this recommendation. I have prepared the attached edited version of Section 637, paragraphs 8, 11 and 12 for the Planning Commission to review. If there is interest in proceeding, this amendment could be scheduled for consideration in June.

c: Leslie Couturier
Zoning Administrator

AN ORDINANCE TO AMEND SECTION 637, PLANNED UNIT DEVELOPMENT OF
THE EAST BAY CHARTER TOWNSHIP ZONING ORDINANCE

EAST BAY CHARTER TOWNSHIP HEREBY ORDAINS:

1. Section 637, subparagraph 8, is hereby amended to read as follows:

8. DECISIONS: If the Township Planning Commission determines that the PUD application is consistent with the intent of the ordinance as expressed above and with the other standards and requirements herein contained, it shall ~~recommend its findings to the Township Board of Trustees, which shall, following a public hearing with notice given as required by Section 831, Hearing Notice Procedures, of this Ordinance, then~~ make a final decision to enter an order authorizing development and use in accordance with the application and material submitted, modified as the ~~Planning Commission Township Board of Trustees~~ may consider necessary to carry out the intent and standards of this ordinance and containing any lawful conditions or restrictions which the ~~Planning Commission Township Board of Trustees~~ may consider necessary to carry out the purposes of this ordinance and to protect the public health, safety and welfare. The decision of the ~~Planning Commission Township Board of Trustees~~ shall be a discretionary decision. The order shall recite the findings of fact and the reasons upon which it is based. Said order, findings, conditions of approval and other requirements of the ~~Planning Commission Township Board~~, may be set forth in a Development Agreement prepared by the Township Attorney and the completion and execution of said Development Agreement shall be accomplished prior to the issuance of a land use permit. (Revised 6/24/06; Revised 4/6/07)

2. Section 637, subparagraph 11, is hereby amended to read as follows:

11. AMENDMENTS: An order approving a planned unit development may be amended as follows:

- a. Minor amendments. Minor amendments are those which will have no foreseeable effect beyond the property boundary such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Zoning Administrator provided no such changes shall increase the size or height of structures, reduce the efficiency or number of public facilities serving the PUD, reduce usable open space, or encroach on natural features proposed by the plan to be protected.

b. Major amendments. Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the ~~Planning Commission Township Board of Trustees~~ according to the procedures authorized by this section for approval of a planned unit development.

3. Section 637, subparagraph 12, is hereby amended to read as follows:

12. TERMINATION: The PUD order shall expire two years from date of final approval if the applicant has not commenced substantial construction and is diligently proceeding to completion. Upon written request stating the reasons therefore, ~~and with a positive recommendation from the Planning Commission,~~ the ~~Planning Commission Township Board of Trustees~~ may extend an order. An order may be canceled by written agreement executed by the owner of the land to which it pertains and the Zoning Administrator at any time when the development and use of the land is in conformance with all provisions of this ordinance which would apply if such order had not been issued. The order may be rescinded at any time by the ~~Planning Commission Township Board of Trustees~~ for violation of the order by the applicant, its successors, agents or assigns after notice to the current owners and occupiers of the PUD area and after a hearing on the violation. Upon termination of an order the zoning requirements shall revert to the current requirements for the zoning district designated for the property prior to the order.

4. Severability.

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

5. Effective Date.

This Ordinance shall become effective eight (8) days after publication.

CHARTER TOWNSHIP OF EAST BAY

Date: _____

By: _____
Glen Lile, Supervisor

Date: _____

By: _____
Susanne M. Courtade, Clerk

Published Date: _____, 2009

Effective Date: _____, 2009