

**SPECIAL MEETING OF THE EAST BAY CHARTER TOWNSHIP  
PLANNING COMMISSION  
TUESDAY ~ October 28, 2008 ~ Township Hall ~ 6:30 pm**

**Planning Commissioners Present:** Jim McDowell, Mike Nickels, Tracey Bartlett, Judy Nemitz, Robert Tubbs, Mindy Walters, and Ted Hentchel

**Others Present:** Jay Kilpatrick, Planner from Williams and Works; Peter Wendling, Township Attorney; Anne Wendling, Recording Secretary

**There were twelve (12) members of the public in attendance.**

1. **Call Meeting to Order:** Chairman Nickels called the meeting to order at 6:35pm
2. **Roll Call:** Roll was called by the recording secretary. Chair Nickels welcomed Tracey Bartlett to the Planning Commission.
3. **Review for Conflict of Interest:** None presented
4. **Approval of the Agenda:** Nemitz moved and Walters seconded to approve the agenda. The motion carried unanimously.
5. **Public Input (Other than agenda items):** None at this time
6. **New Business:** None at this time
7. **Old Business**

*1. East Towne PUD*

Township Attorney Wendling spoke regarding his findings of fact and what they include. Planner Jay Kilpatrick spoke regarding what a PUD is intended to do and told commissioners that a PUD is needed in this case because of the zoning ordinance requirements and because there will be deviations from that ordinance. Developers have asked for a 7 year approval for the life of the PUD to allow MSHDA to act properly. Kilpatrick and the commissioners went through the September 25th document written by Kilpatrick and looked at what had been changed and addressed and what had not. Commissioners then asked questions and had concerns about the PUD. Doug Mansfield confirmed that phasing will remain the same. He also said that the commercial zone may be developed sooner. Nickels asked about the phasing of the senior housing and Mansfield said it would have to be government approved first and then a feasibility analysis would be done and that analysis is a one year process for one building at a time. The Planning Commission then considered the Findings of Fact pertaining to the East Towne PUD application.

**Applicant:** East Towne LLC

**Owner:** William and Toni Clous, and Ken and Mary Murray

**Hearing:** Tuesday, August 12, 2008 at 6:30 p.m. and decision and recommendation made on Tuesday, October 28, 2008 at 6:30 p.m. at the East Bay Township Hall located at 1965 Three Mile Road North, Traverse City, Michigan

## PROPERTY DESCRIPTION

The property is described more fully as: situated in the Township of East Bay, County of Grand Traverse, State of Michigan,

*See attached exhibit C for Legal Description*

Hereinafter referred to at the "property".

## EXHIBITS

- A. East Bay Township Comprehensive Plan
- B. East Bay Township Zoning Ordinance
- C. Legal Description of property
- D. Application and Site Plan, PUD, with materials
- E. Supplemental Development Pattern Guidelines submitted by Mansfield and Associates dated September 18, 2008
- F. Consent Judgment applicable to property entered July 6, 2004
- G. MSHDA Rules
- H. E-mail from James G. Williams to Doug Mansfield regarding ambulance log, Village at Bay Ridge, dated October 2, 2008
- I. Jay Kilpatrick's report dated September 25, 2008
- J. Memorandum from Mary Gillis, manager, Grand Traverse County Road Commission dated June 16, 2008
- K. Report from Kevin McElyea, County Drain Commissioner, dated April 4, 2008
- L. Development Pattern Guidelines from Petra Kuehnis dated October 20, 2008
- M. Sample photographs depicting how the congregate care facility will look once built.
- N. Evaluation of revised Development Pattern Guidelines for East Towne PUD.

## APPLICATION

East Towne LLC proposes a Planned Unit Development consisting of senior apartment living, senior assisted living, and long term care with mixed use neighborhood commerce on a site consisting of approximately 58 acres located on Three Mile Road between Airport Road and Hammond Road. The project as proposed is located in the High Density Residential District and part of the Mitchell and Baker Creek Overlay District. The regulations pertaining to Planned Unit Developments are found in Article VI, section 637 of the East Bay Township Zoning Ordinance. In addition, all Planned Unity Developments are subject to site plan review under Article VIII, section 820 of the East Bay Township Zoning Ordinance and Special Land Use standards under Article VI, section 602.

The Planning Commission having considered all of the comments and letters submitted by members of the public, as well as comments and materials submitted by the Applicant and/or the Applicant's representative and other materials taken in before and during the public hearing as well as materials requested by the Planning Commission and submitted, and the Planning Commission having considered 14 (fourteen) Exhibits, and the Planning Commission having reached a decision on this matter, states as follows:

## GENERAL FINDINGS OF FACT

1. The Planning Commission finds that East Towne LLC proposes to develop as a Planned Unit Development pursuant to Article VI, section 637 of the East Bay Township Zoning Ordinance certain contiguous parcels of property having a legal description as attached in exhibit C and which have the following parcel identification numbers:

219-002-00; 219-006-00; 219-000-25; 219-001-00; 219-004-00 and 219-000-50  
(hereinafter the "property"). (See exhibit B, zoning ordinance and exhibit D, application and site plan materials for PUD)
2. The Planning Commission finds that the property has approximately 2000 (two thousand) feet of frontage on Three Mile Road and consists of approximately 58 (fifty-eight) acres of land. (See exhibit C)
3. The Planning Commission finds that the property is largely located in the High Density Residential District (HDR) pursuant to East Bay Township's Zoning Ordinance. (See exhibit B, Article IV, section 403)
4. The Planning Commission finds that the property is partially subject to the Mitchell & Baker Creek Overlay District. (See exhibit B, Article II, section 219)
5. The Planning Commission finds that the owners of the property are William and Toni Clous and Ken and Mary Murray. (See exhibit D)
6. The Planning Commission finds that the Applicant and authorized agent of the owner is Doug Mansfield of Mansfield and Associates, Inc. (See exhibit D)
7. The Planning Commission finds that the development as proposed and upon completion will consist of the following:
  - i. Three three-storied buildings for senior congregate living (senior apartments, assisted living) having 120 (one hundred twenty) units per building.
  - ii. Two senior assisted living (long term care/nursing home) buildings of one story in height with a maximum of 50 (fifty) residents per building for a total of 100 (one hundred) resident .
  - iii. Areas fronting Three Mile Road and on the southern boundary of the property are to consist of mixed use neighborhood commerce, with a total acreage set aside for mixed use neighborhood commerce, of approximately 9.39 acres. (See exhibits D and E)
8. The Planning Commission finds that the property is part of a larger property subject to a consent judgment entered in the Circuit Court by the County of Grand Traverse being File No. 04-23421-CZ and having a date of entry of July 6, 2004. (See exhibit F)
9. The Planning Commission finds that Section IX of the judgment addresses Wetland Delineation and Authorization of Activities on the property as well as the additional contiguous property not part of the proposed development. (See exhibit F)
10. The Planning Commission finds that attached to the consent judgment is a Wetland Delineation for the entire property including the proposed property which is the subject of the proposed development. (See exhibit F)

11. The Planning Commission finds that part of the property includes existing wetlands as well as an existing 4.5 acre pond and a small area of wetland near the center of the property proposed for development directly adjacent to Three Mile Road. (See exhibits C, D, E and F)
12. The Planning Commission finds that other than wetland areas identified as exempted for 2e farming activities, no other activities are authorized on the wetland areas, including filling, dredging, tilling or mechanized land clearing without a permit from the MDEQ. (See exhibit F)
13. The Planning Commission finds that the developer has represented that portions of the buildings, specifically the senior housing, are to be built from funds provided by the Michigan State Housing Development Authority (MSHDA), an authority authorized under Public Act 346 of 1966.
14. The Planning Commission finds that MSHDA is authorized pursuant to MCL 125.1422 and MCL 125.1458b of the Michigan Compiled Laws to develop rules for the implementation, management and funding of any projects approved or receiving funds through MSHDA. (See exhibit G, MSHDA rules)
15. The Planning Commission finds that the rules under MSHDA control loans for specific projects, including control of architectural features on projects funded through MSHDA. (See exhibit G, R125.142-R125.145)
16. The Planning Commission finds that MSHDA-approved projects provide funding for low and moderate income housing, including senior housing as proposed by the Applicant. (See exhibit H)
17. The Planning Commission finds that according to representations made by the Applicant, Mansfield and Associates, Inc., an application for MSHDA funding cannot be submitted unless a project has been approved by a governmental entity. (See exhibit G)
18. The Planning Commission finds that the specific deviations from standards contained in the zoning ordinance for are as follows:
  - i. The addition of mixed commercial development areas bordering Three Mile Road and the southerly border of the property.
  - ii. The placing of signs beyond the number allowed under section 215 of the Zoning Ordinance.
  - iii. Requests for building heights of up to 40' (forty feet) mean height for both the residential and commercial buildings wherein section 403 limits building heights in the HDR district to no more than 35' (thirty five feet).
  - iv. A request that the PUD order not expire after two (2) years as provided under section 637(12) of the zoning ordinance wherein the developer is requesting that the PUD approval be for seven (7) years due to the need to file for MSHDA funding and to receive approval for the funding of the project. (See exhibit D)
  - v. A request that the buildings identified as "senior congregate living" which are multiple dwelling units as defined under the East Bay Township Zoning Ordinance exceed the maximum 12 (twelve) dwelling units per building, to wit; each building as proposed would contain 120 (one hundred twenty) units. (See exhibits D and E)

SPECIFIC FINDINGS OF FACT UNDER SECTION 637.4  
OF THE EAST BAY TOWNSHIP ZONING ORDINANCE

4. REGULATIONS AND CONDITIONS: Planned unit developments shall meet the following general standards:
- a. The use will be compatible with adjacent land use, the natural environment, and the capacities of affected services and facilities, and that such use is consistent with the public health, safety and welfare of East Bay Township residents and the benefits of the development are not achievable under any single zoning classification.
1. The Planning Commission finds that under section 1417 of the East Bay Township Zoning Ordinance, Planned Unit Developments by definition are "...intended to accommodate developments with mixed or varied uses, having sites with unusual topography or unique settings within the community, or on land which exhibits difficult and costly development problems." The property is part of a much larger contiguous parcel subject to a court order effectively restricting the use of this much larger parcel based on the location of wetlands as well as area streams. Due to existing wetlands and the requirement to comply with a court order as well as other environmental regulations, the property exhibits difficult development problems. However, it also provides an opportunity given the large buffer area of wetlands to create a senior housing development with some commercial development associated and servicing the senior housing while the remaining land continues to exist in a state which will remain largely natural and compatible with adjacent land uses. (See exhibit B)
2. The Planning Commission finds that the master plan specifically contemplates senior housing developments and the utilization of planned unit developments of property located in HDR district, specifically stating;
- On a limited basis, higher densities may be considered where the effects of that density on natural features, infrastructure and surrounding properties can be mitigated. For example, a senior housing development may be considered if it can be demonstrated that impacts such as traffic, storm water runoff, community character and service demands would be consistent with that generated by a less intense development. In order to accommodate the special needs of such a higher density development within the High Density Residential land use category, the Township will utilize Planned Unit Development and other flexible zoning and regulatory techniques and work in collaboration with the property owners. (See exhibit A, page 80)
3. The Planning Commission finds that absent utilization of a PUD form of development the Applicant would have the ability, as a permitted use in the HDR District, to construct multiple family dwellings with up to 12 (twelve) units and a nursing home (i.e. long term care facility) albeit without the ability to construct the type of commercial development outlined by the Applicant in a PUD submittal dated June, 2008. (See exhibits B and D)
4. The Planning Commission finds that the density proposed is actually less than what is allowed under the zoning ordinance. Under the ordinance, the minimum density per acre under Article V, Table 3 is 8 (eight) dwelling units. As such, this property consisting of 58 acres contain have a maximum of 464 dwelling units. The development as proposed will result in a maximum of 360 dwelling units.

However, the area designated as senior assisted living (long term care) essentially meets the definition of nursing home under the ordinance. Therefore, the 100 beds contained in the two nursing home buildings would not be considered a dwelling unit as defined under the East Bay Township Zoning Ordinance. This reduces the density of dwelling units from 8 per acre to approximately 6.3 per acre within the development. Even if the developer adds in the possibility of 75 dwelling units in the proposed commercial area, the maximum density would be 7.5 dwelling units per acre, well below the requirement of the East Bay Township Zoning Ordinance in the HDR District. (See exhibits B and D)

5. The Planning Commission finds that the property will be serviced by water and sewer which exists along Three Mile Road. Further evidence presented by the Applicant with respect to the emergency services needed, shows by example the emergency call log at the Village at Bay Ridge for ambulance runs. According to the information provided by the Applicant, the Village at Bay Ridge, which consists of 244 units (inclusive of all beds) had on average of 7 (seven) ambulance calls per month or 84 calls per year. Of those calls, 75% were for assists only and 25% required transport. Based on a maximum of 460 units, that would result in only 13 total calls per month once the East Towne property is fully developed. Thus it appears that the capacity of public service for this facility is adequate for the development. (See exhibit H)
6. The Planning Commission finds that although the Applicant could develop a multiple dwelling senior apartment, assisted living apartments, as well as a nursing home as permitted uses in the HDR District without commercial development, the benefits of such a permitted use development only could not be achieved under the HDR zoning classification alone. This is particularly true given the potential lack of mobility that many residents of senior housing may have which would hinder their ability to travel to other areas of the township where needed services are provided in commercially developed areas. (See exhibit B and D)
7. The Planning Commission finds that based upon discussions with Mikey Parker, EMS, the Planning Commission understands that if the development extends over a period of years, it will not result in a strain of the capacity of EMS services for East Bay Township. Further, Ms. Parker states that otherwise East Bay EMS is satisfied with the site plan.

The Planning Commission finds that this standard has been met.

- b. The use shall be consistent with the East Bay Township Comprehensive Plan and Future Land Use Map as set forth in this Article.
  1. The Planning Commission finds that the master plan specifically contemplates senior housing developments and the utilization of planned unit developments of property located in HDR district, specifically stating;

On a limited basis, higher densities may be considered where the effects of that density on natural features, infrastructure and surrounding properties can be mitigated. For example, a senior housing development may be considered if it can be demonstrated that impacts such as traffic, storm water runoff, community character and service demands would be consistent with that generated by a less intense development. In order to accommodate the special needs of such a

higher density development within the High Density Residential land use category, the Township will utilize Planned Unit Development and other flexible zoning and regulatory techniques and work in collaboration with the property owners. (See exhibit A, page 80)

2. The Planning Commission finds that the property is designated in a future land use map as Residential High Density. This is consistent with the master plan's discussion of the possibility of a senior housing development and allowing some commercial development. Adjacent commercial development with senior housing with appropriate conditions will achieve a benefit commensurate with the master plan constituting a proper mix of uses for the property. (See exhibit B, D and I)

The Planning Commission finds that this standard has been met.

- c. The use and development is warranted by the design and additional amenities made possible with and incorporated by the development proposal.

1. The Planning Commission finds that the design includes additional amenities benefitting the residents as well as the township such as walking paths within the development and a 10' (ten foot) wide asphalt path running north-south along Three Mile Road which serves as part of a regional trail link. The township's master plan favors the construction and utilization of non-motorized trails (see exhibit A, page 87 and exhibit D)
2. The Planning Commission finds that indoor amenities proposed for residents include fitness rooms, recreational services, meal services and other personal care services within the facility. A limited commercial component serving the residents of the property, those visiting the residents and, to a certain extent, the region at large with development pattern guidelines would provide for the development of a completely integrated community without a detrimental impact on the nearby Village Center located at Hammond and Three Mile Road. (See exhibits D and E)
3. The Planning Commission finds that the commercial development proposed will be designed with architectural features which will make the development more attractive rather than a development consisting of institutional buildings with limited architectural features. The owner could otherwise develop the site under permitted uses with institutional, utilitarian building designs that would result in an unattractive, but lawful development. (See exhibits B and D)

This standard has been met.

- d. The development consolidates and maximizes usable open space.

1. The Planning Commission finds that the portion of the property is subject to the Mitchell and Baker Creek Overlay District as well as the court order entered on July 6, 2004, requires protection of the wetland areas inclusive of the pond as well as a 100' (one hundred foot) managed buffer strip accounting for approximately 14 ½ acres on the property. In addition, approximately 16 acres of the balance of the site will be landscaped area with storm water detention and aesthetic enhancements. This achieves the intent of the ordinance by protecting the areas within the Overlay District and by setting aside some open areas within the development portion of the site even with a relatively dense development. (See exhibits D, E, F and I)

2. The Planning Commission finds that if the property were developed as a permitted use, open space would not be utilized in as an efficient a manner as proposed because the senior apartments and assisted living units would be cut up into buildings consisting at a maximum of 12 units per building as required by the zoning ordinance. This, in addition to the long term care (nursing home) facility, would result in a narrowing of usable open space and a rather plain development. (See exhibit B, D and E)
3. The Planning Commission finds that section 219, 1, d, (2) requires that all development in the Mitchell & Baker Creek Overlay District, except individual single family lots, shall be developed as a Planned Unit Development (PUD) in accordance with section 637 of the zoning ordinance. (See exhibit B)

The Planning Commission finds that this standard has been met.

- e. Landscaping is provided to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property and to create a pleasant pedestrian scale outdoor environment.
  1. The Planning Commission finds that the Applicant's landscape plan provides for significant buffering with the planting of trees and other vegetation between structures and between the senior apartments, assisted living apartment and long term care (nursing home) facility as well as between those uses and the proposed commercial area. (See exhibits D, E and L)
  2. The Planning Commission finds that the landscaping and buffering as presented meets in part some of the requirements contained in section 229 of the general provisions of the East Bay Township Zoning Ordinance, specifically mandated irrigation and the provision of three trees planted every 50' (fifty feet) on center along sidewalks as a buffer between pedestrian use and vehicle use with the Applicant recognizing that when construction occurs for any of the buildings that such buildings are subject to and shall meet the requirements of the ordinance with respect to site plan approval. (See exhibit B and E)

The Planning Commission finds that this standard has been met.

- f. Vehicular and pedestrian circulation, allowing, safe convenient, non-congested and well-defined circulation within and access to the development shall be provided.
  1. The Planning Commission finds that the proposal includes 2 (two) new driveways off Three Mile Road and a new private road with the possibility of conversion to a public road. Each opening on to Three Mile Road is separated from the other by at least 400' (four hundred feet) thus meeting the requirements under section 224, 3b. of the East Bay Township Zoning Ordinance. (See exhibits B, D, and I)
  2. The Planning Commission finds that although certain improvements are going to be required to meet road commission standards, the only issue which remains to be resolved is the location of the proposed East Towne Avenue from Noteware Drive pending resolution of this issue with the road commission. There otherwise does not appear to be any vehicular circulation issues which would have any negative impact given the proposed development. (See exhibit D, F, I and J)
  3. The Planning Commission finds that the Applicant will have to abide by all requirements set forth by the Grand Traverse County Road Commission, as

stated in the road commission's memo dated June 16, 2008 and as otherwise required by the road commission's authority. (See exhibit J)

The Planning Commission finds that this standard has been met.

- g. Existing important natural, historical and architectural features within the development shall be preserved.
  - 1. The Planning Commission finds that the property includes 2 (two) existing residential structures which shall be removed. These residential structures are not historically significant. However, the property does include a portion of the Mitchell and Baker Creek wetlands and is subject with respect to all wetlands to the court order entered on July 6, 2004 by Judge Power of the 13<sup>th</sup> Circuit. (See exhibit D, F and I)
  - 2. The Planning Commission finds that the property does not have any existing important historical or architectural features. However, the property being inclusive of the Mitchell and Baker Creek wetlands and Overlay District, as well as being subject to the aforementioned court order contains existing important natural features. However, the development as proposed will protect those natural features and no future development is proposed to be constructed in violation of the court order. (See exhibits B, F and I)

The Planning Commission finds that this standard has been met.

SPECIFIC FINDINGS OF FACT UNDER SECTION 602.1  
OF THE EAST BAY TOWNSHIP ZONING ORDINANCE

- 1. GENERAL REVIEW STANDARDS. The Planning Commission, before acting on a Special Land Use Application, shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this Zoning Ordinance, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The Planning Commission shall review each application and shall approve such special land use only if it finds that such special land use meets each of the following standards, together with any and all special land use standards reflected for the zoning district in Article IV hereof, and any and all applicable specific review standards found in this Article. The Planning Commission shall find adequate evidence that each use at its proposed location will be consistent with the public health, safety, and welfare of the Township and shall comply with the following standards:
  - a. Be consistent with the adopted Township Comprehensive Plan.
    - 1. The Planning Commission finds that the master plan specifically contemplates senior housing developments and the utilization of planned unit developments of property located in HDR district, specifically stating;

On a limited basis, higher densities may be considered where the effects of that density on natural features, infrastructure and surrounding properties can be mitigated. For example, a senior housing development may be considered if it can be demonstrated that impacts such as traffic, storm water runoff, community character and service demands would be consistent with that generated by a less intense development. In order to accommodate the special needs of such a higher density development within the High Density Residential land use category, the Township will utilize Planned Unit Development and other

flexible zoning and regulatory techniques and work in collaboration with the property owners. (See exhibit A, page 80)

2. The Planning Commission finds that the design includes additional amenities benefiting the residents as well as the township such as walking paths within the development and a 10' (ten foot) wide asphalt path running north-south along Three Mile Road which serves as part of a regional trail link. The township's master plan favors the construction and utilization of non-motorized trails (see exhibit A, page 87 and exhibit D)
3. The Planning Commission finds that based upon discussions with Mikey Parker, EMS, the Planning Commission understands that if the development extends over a period of years, it will not result in a strain of the capacity of EMS services for East Bay Township. Further, Ms. Parker states that otherwise East Bay EMS is satisfied with the site plan.

The Planning Commission finds that this standard has been met.

- b. Be designed, constructed, operated and maintained to be consistent with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

1. The Planning Commission finds that the master plan specifically contemplates senior housing developments and the utilization of planned unit developments of property located in HDR district, specifically stating;

On a limited basis, higher densities may be considered where the effects of that density on natural features, infrastructure and surrounding properties can be mitigated. For example, a senior housing development may be considered if it can be demonstrated that impacts such as traffic, storm water runoff, community character and service demands would be consistent with that generated by a less intense development. In order to accommodate the special needs of such a higher density development within the High Density Residential land use category, the Township will utilize Planned Unit Development and other flexible zoning and regulatory techniques and work in collaboration with the property owners. (See exhibit A, page 80)

2. The Planning Commission finds that the deviation from the standard zoning requirements for the HDR District will enhance the creation of the community servicing seniors. Such services and development are contemplated by the master plan. The proposed development will not compromise the character of the area given that the property is surrounded by protected wetlands subject to a court order and is located directly on Three Mile Road, a major artery of the township. Further, the density proposed is consolidated in buildings larger than allowed under the ordinance, but still remains within the density/acre allotment provided for in the HDR District under the zoning ordinance. (See exhibit A, B, D and I)

The Planning Commission finds that this standard has been met.

- c. Not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.

1. The Planning Commission finds that the proposed use is residential with a moderate commercial component meant to enhance and provide services to the senior housing community and those visiting and working there. Such a use is not hazardous or disturbing and is commensurate with the high density residential use otherwise authorized in the zoning district. (See exhibit A, B, D and I)
2. The Planning Commission find that while there will be some traffic impact on Three Mile Road as there would be with any development, the traffic impact study provided by the Applicant with the application and site plan demonstrates that the impact would be no greater than what would be expected from developments otherwise allowed under the Ordinance as a permitted use. (See exhibit D)

The Planning Commission finds that this standard has been met.

- d. Be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, stormwater drainage, refuse disposal, water and sewage facilities and schools or persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.
  1. The Planning Commission finds that evidence presented by the Applicant with respect to the level of emergency services needed, shows as an example the emergency call log at the Village at Bay Ridge for ambulance runs. According to the information provided by the Applicant, the Village at Bay Ridge, which consists of 244 units, had on average of 7 (seven) ambulance calls per month or 84 calls per year. Of those calls, 75% were for assists only and 25% required transport. Based on a maximum of 460 units for the East Towne development, that would result in only 13 total calls per month once the East Towne property is fully developed. Thus it appears that the capacity of public service for this facility is adequate for the development and will not impact in a detrimental manner the public health, safety and welfare of East Bay Township residents. (See exhibit H)
  2. The Planning Commission finds that the proposed project will have an automatic fire suppression system, a standard contained in the model fire code, which will enhance the safety of residents in the development as well as reduce the risk of a large fire and the amount of emergency services which would be needed to fight such a fire. (See exhibits D and I)
  3. The Planning Commission finds that the property will be served with municipal water and sewage facilities which are more than adequate to service the development as proposed. Further, pursuant to the Drain Commissioner's memorandum and report dated April 4, 2008, that given proper oversight by the township engineer and input from the Drain Commissioner, refuse disposal as well as stormwater drainage will not be an issue. (See exhibits D and K)
  4. The Planning Commission finds that the proposed development will not provide any adverse impact to local schools given the capacities of both the public schools, area private schools and public school academies. Further, the development as proposed would not significantly increase the number of students in the area. Even if it did, public schools obtain a large part of their funding based upon the student count such that any additional public school pupils for both the public schools and public charter schools in the area would be financially beneficial to both organizations. (See exhibit D)

5. The Planning Commission finds that based upon discussions with Mikey Parker, EMS, the Planning Commission understands that if the development extends over a period of years, it will not result in a strain of the capacity of EMS services for East Bay Township. Further, Ms. Parker states that otherwise East Bay EMS is satisfied with the site plan.

The Planning Commission finds that this standard has been met.

- e. Not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.

1. The Planning Commission finds that the proposal will add some commercial development with a large investment in residential senior housing. This will likely create opportunities for employment in the community, enhancing the economic welfare of the township. (See exhibits D and I)
2. The Planning Commission finds that evidence presented by the Applicant with respect to the level of emergency services needed, shows as an example the emergency call log at the Village at Bay Ridge for ambulance runs. According to the information provided by the Applicant, the Village at Bay Ridge, which consists of 244 units, had on average of 7 (seven) ambulance calls per month or 84 calls per year. Of those calls, 75% were for assists only and 25% required transport. Based on a maximum of 460 units for the East Towne development, that would result in only 13 total calls per month once the East Towne property is fully developed. Thus it appears that the capacity of public service for this facility is adequate for the development and will not impact in a detrimental manner the public health, safety and welfare of East Bay Township residents. (See exhibit H)
3. The Planning Commission finds that based upon discussions with Mikey Parker, EMS, the Planning Commission understands that if the development extends over a period of years, it will not result in a strain of the capacity of EMS services for East Bay Township. Further, Ms. Parker states that otherwise East Bay EMS is satisfied with the site plan.

The Planning Commission finds that this standard has been met.

- f. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, glare or odors.

1. The Planning Commission finds that although the development will involve a significant population increase on the 58 acre property, given that it is senior housing, the amount of increased traffic for this development will logically be significantly less as a large component of the population living on the property would not use automobiles for transportation as frequently as a traditional development in the high density residential district. (See exhibits B and D)
2. The Planning Commission finds that the proposal includes 2 (two) new driveways off Three Mile Road and a new private road with the possibility of conversion to a public road. Each opening on to Three Mile Road is separated from the other by at least 400' (four hundred feet) thus meeting the requirements under section 224, 3b. of the East Bay Township Zoning Ordinance. (See exhibits B, D, and I)

3. The Planning Commission finds that the proposed use and development including the lighting requirements for the development will not produce smoke, fumes, glares or odors in a degree greater than uses by right otherwise permitted in the HDR district. (See exhibits B and D)

The Planning Commission finds that this standard has been met.

- g. Ensure that the environment shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications that result in maximum harmony with adjacent areas.

1. The Planning Commission finds that the portion of the property is subject to the Mitchell and Baker Creek Overlay District as well as the court order entered on July 6, 2004, requires protection of the wetland areas inclusive of the pond as well as a 100' (one hundred foot) managed buffer strip accounting for approximately 14 ½ acres on the property. In addition, approximately 16 acres of the balance of the site will be landscaped area with storm water detention and aesthetic enhancements. This achieves the intent of the ordinance by protecting the areas within the Overlay District and by setting aside some open areas within the development portion of the site even with a relatively dense development. (See exhibits D, E, F and I)

2. The Planning Commission finds that the property includes 2 (two) existing residential structures which shall be removed. These residential structures are not historically significant. However, the property does include a portion of the Mitchell and Baker Creek wetlands and is subject with respect to all wetlands to the court order entered on July 6, 2004 by Judge Power of the 13<sup>th</sup> Circuit. (See exhibit D, F and I)

The Planning Commission finds that this standard has been met.

- h. Meet the intent and purpose of the Zoning Ordinance; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.

1. The Planning Commission finds that the proposal while deviating from some of the requirements of the zoning ordinance in certain areas, essentially meets the intent and purpose of the HDR district as provided in the master plan such that the deviations do not effect or result in an increase in density beyond the regulations provided in the HDR District. Furthermore, the deviations as proposed will not result in a development that is out of character or scope of development contemplated in the HDR District or the master plan. (See exhibits A, B, D and I)

2. The Planning Commission finds that section 219, 1, d, (2) requires that all development in the Mitchell & Baker Creek Overlay District, except individual single family lots, shall be developed as a Planned Unit Development (PUD) in accordance with section 637 of the zoning ordinance. (See exhibit B)

The Planning Commission finds that this standard has been met.

SPECIFIC FINDINGS OF FACT UNDER SECTION 820.7  
OF THE EAST BAY TOWNSHIP ZONING ORDINANCE

7. CRITERIA FOR REVIEW: In the process of reviewing a site plan, the Planning Commission shall consider;

a. That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township of the County Road Commission.

1. The Planning Commission finds that any approval of this project will be contingent upon meeting all the standards and requirements of the Grand Traverse County Road Commission, including recommendations made in writing by the Road Commission manager, Mary Gillis, in her memo dated June 16, 2008. (See exhibit J)

2. The Planning Commission finds that the Applicant has provided sufficient site circulation, driveways and pedestrian facilities with respect to the senior housing and long term care facilities. However, internal circulation with respect to the development of any commercial areas will be subject to additional site plan review.  
(See exhibits B, D and I)

The Planning Commission finds that this standard has been met.

b. That the buildings structures and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.

1. The Planning Commission finds that the height deviation requested for the construction of the buildings is for a 40' maximum height. The HDR district allows for a 35 foot maximum. Under the adjustments provided in the Design Pattern Guidelines, buildings higher than 35 feet shall be set back from Three Mile Road and East Towne Avenue an additional two feet for each additional foot of height above 35 feet but not to exceed 40 feet in mean height. (See exhibits B and L)

The Planning Commission finds that this standard has been met.

c. That as many natural features of the landscape shall be retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

1. The Planning Commission finds that the plans are in compliance with the court order entered on July 6, 2004 allows zoning restrictions within the Mitchell and Baker Creek Overlay District will permanently protect over 14 acres of the subject property from development. The plans and proposal also provides for landscape buffers to screen parking and service uses within the development including any proposed commercial areas. (See exhibits B, D, F and I)

2. The Planning Commission finds that the portion of the property is subject to the Mitchell and Baker Creek Overlay District as well as the court order entered on July 6, 2004, requires protection of the wetland areas inclusive of the pond as well as a 100' (one hundred foot) managed buffer strip accounting for approximately 14 ½ acres on the property. In addition, approximately 16 acres

of the balance of the site will be landscaped area with storm water detention and aesthetic enhancements. This achieves the intent of the ordinance by protecting the areas within the Overlay District and by setting aside some open areas within the development portion of the site even with a relatively dense development. (See exhibits D, E, F and I)

The Planning Commission finds that this standard has been met.

- d. That any adverse effect of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or walls, or landscaping.
  - 1. The Planning Commission finds that the plans as presented, compliance with the court order entered on July 6, 2004 and zoning restrictions within the Mitchell and Baker Creek Overlay District will protect over 14 acres of the subject property from development. The plans and proposal also provides for landscape buffers to screen parking and service uses within the development including any proposed commercial areas. (See exhibits B, D, F, and I)
  - 2. The Planning Commission finds that the portion of the property is subject to the Mitchell and Baker Creek Overlay District as well as the court order entered on July 6, 2004, requires protection of the wetland areas inclusive of the pond as well as a 100' (one hundred foot) managed buffer strip accounting for approximately 14 ½ acres on the property. In addition, approximately 16 acres of the balance of the site will be landscaped area with storm water detention and aesthetic enhancements. This achieves the intent of the ordinance by protecting the areas within the Overlay District and by setting aside some open areas within the development portion of the site even with a relatively dense development. (See exhibits D, E, F and I)
  - 3. The Planning Commission finds that the proposed landscape will soften the presentation of carport buildings and additional setback distances shall be provided for buildings as to the 35' maximum mean height. (See exhibit B, D and I)
  - 4. The Planning Commission finds that there should be adequate buffering between the proposed development and the neighboring residential property. (See exhibit D)

The Planning Commission finds that this standard has been met.

- e. That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
  - 1. The Planning Commission finds that other than the departures outlined in the Applicant's application and site plan and incorporated as findings of fact, there are no deviations beyond those requested as a Planned Unit Development. No variances have been requested or are required. (See exhibit B, D and I)

The Planning Commission finds that this standard has been met.

- f. That all buildings and structures are accessible to emergency vehicles.
  - 1. The Planning Commission finds that evidence presented by the Applicant with respect to the level of emergency services needed, shows as an example the

emergency call log at the Village at Bay Ridge for ambulance runs. According to the information provided by the Applicant, the Village at Bay Ridge, which consists of 244 units, had on average of 7 (seven) ambulance calls per month or 84 calls per year. Of those calls, 75% were for assists only and 25% required transport. Based on a maximum of 460 units for the East Towne development, that would result in only 13 total calls per month once the East Towne property is fully developed. Thus it appears that the capacity of public service for this facility is adequate for the development and will not impact in a detrimental manner the public health, safety and welfare of East Bay Township residents. (See exhibit H)

2. The Planning Commission finds that based upon discussions with Mikey Parker, EMS, the Planning Commission understands that if the development extends over a period of years, it will not result in a strain of the capacity of EMS services for East Bay Township. Further, Ms. Parker states that otherwise East Bay EMS is satisfied with the site plan.

The Planning Commission finds that this standard has been met.

- g. That a plan for erosion control, storm water discharge, has been approved by the appropriate public agency.
  1. The Planning Commission finds that the plans as presented, compliance with the court order entered on July 6, 2004, and zoning restrictions within the Mitchell and Baker Creek Overlay District will protect over 14 acres of the subject property from development. The plans and proposal also provides for landscape buffers to screen parking and service uses within the development including any proposed commercial areas. (See exhibits B, D, F and I)
  2. The Planning Commission finds that the court order entered on July 6, 2004 which includes district conservation easements and is enforceable by the MDEQ as well as Grand Traverse County shall show that all areas, including the wetland area adjoining Three Mile Road, is protected and preserved unless a permit allowing for its development has been granted by the MDEQ pursuant to Article IX of the judgment. (See exhibit F)
  3. The Planning Commission finds that the development is subject to the rules and regulations and authority of the Drain Commissioner which allows appropriate county ordinances and subject to approval and compliance with those ordinances. (See exhibits B, D and I)

The Planning Commission finds that this standard has been met.

- h. The relationship to shore and stream preservation principles where appropriate.
  1. The Planning Commission finds that the project as proposed, preserves and complies with the setback rules and regulations in the Mitchell and Baker Creek Overlay District requirements under the zoning ordinance. (See exhibit B, D and I)
  2. The Planning Commission finds that the portion of the property is subject to the Mitchell and Baker Creek Overlay District as well as the court order entered on July 6, 2004, requires protection of the wetland areas inclusive of the pond as well as a 100' (one hundred foot) managed buffer strip accounting for approximately 14 ½ acres on the property. In addition, approximately 16 acres

of the balance of the site will be landscaped area with storm water detention and aesthetic enhancements. This achieves the intent of the ordinance by protecting the areas within the Overlay District and by setting aside some open areas within the development portion of the site even with a relatively dense development. (See exhibits D, E, F and I)

The Planning Commission finds that this standard has been met.

- i. That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.
  1. The Planning Commission finds that under section 1417 of the East Bay Township Zoning Ordinance, Planned Unit Developments by definition are "...intended to accommodate developments with mixed or varied uses, having sites with unusual topography or unique settings within the community, or on land which exhibits difficult and costly development problems." The property is part of a much larger contiguous parcel subject to a court order effectively restricting the use of this much larger parcel based on the location of wetlands as well as area streams. Due to existing wetlands and the requirement to comply with a court order as well as other environmental regulations, the property exhibits difficult development problems. However, it also provides an opportunity given the large buffer area of wetlands to create a senior housing development with some commercial development associated and servicing the senior housing while the remaining land continues to exist as a result of a court order, state and federal environmental regulations as well as existing conservation easements in a state which will remain largely natural and compatible with adjacent land uses. (See exhibit B)
  2. The Planning Commission finds that the master plan specifically contemplates senior housing developments and the utilization of planned unit developments of property located in HDR district, specifically stating;

On a limited basis, higher densities may be considered where the effects of that density on natural features, infrastructure and surrounding properties can be mitigated. For example, a senior housing development may be considered if it can be demonstrated that impacts such as traffic, storm water runoff, community character and service demands would be consistent with that generated by a less intense development. In order to accommodate the special needs of such a higher density development within the High Density Residential land use category, the Township will utilize Planned Unit Development and other flexible zoning and regulatory techniques and work in collaboration with the property owners. (See exhibit A, page 80)
  3. The Planning Commission finds that the design includes additional amenities benefiting the residents as well as the township such as walking paths within the

development and a 10' (ten foot) wide asphalt path running north-south along Three Mile Road which serves as part of a regional trail link. The township's master plan favors the construction and utilization of non-motorized trails (see exhibit A, page 87 and exhibit D)

4. The Planning Commission finds that the portion of the property is subject to the Mitchell and Baker Creek Overlay District as well as the court order entered on July 6, 2004, requires protection of the wetland areas inclusive of the pond as well as a 100' (one hundred foot) managed buffer strip accounting for approximately 14 ½ acres on the property. In addition, approximately 16 acres of the balance of the site will be landscaped area with storm water detention and aesthetic enhancements. This achieves the intent of the ordinance by protecting the areas within the Overlay District and by setting aside some open areas within the development portion of the site even with a relatively dense development. (See exhibits D, E, F and I)
5. The Planning Commission finds that the property does not have any existing important historical or architectural features. However, the property being inclusive of the Mitchell and Baker Creek wetlands and Overlay District, as well as being subject to the aforementioned court order contains existing important natural features. However, the development as proposed will protect those natural features and that no future development is proposed to be constructed in violation of the court order. (See exhibits B, F and I)

The Planning Commission finds that this standard has been met.

#### CONDITIONS OF APPROVAL

To move the project forward, the Planning Commission and Township Board may delegate the review and finalization to the Zoning Administrator and Planner. The following are the conditions of this approval:

1. No preliminary or final earthwork, grading or timber removal shall be undertaken on the site until a land use permit has been issued.
2. The October 20, 2008 version of the Development Pattern Guidebook (exhibit L) shall be adjusted as outlined in the Township Planner's memorandum dated October 28, 2008 (exhibit M), subject to final review and approval by the Zoning Administrator.
3. Buildings or portions of buildings greater in mean height than 35 feet shall be set back 2 feet from the Three Mile Road or East Towne Avenue property lines for each one foot of added height in excess of 35 feet, but not to exceed 40 feet, mean height.
4. The exterior design of the congregate care and assisted living buildings shall be consistent with both the elevations provided in exhibit D and the photos of Bay Ridge provided as an example of the quality of exterior design. (Exhibit M)
5. No development shall impact the small wetland adjoining Three Mile Road right-of-way without the approval of the MDEQ and applicable county agencies.
6. Obtain approval of the Road Commission, Drain Commission, Township Engineer, MDEQ, Health Department, MSHDA and any other relevant agencies.

7. All future developments within the mixed-use commercial area shall be subject to site plan review and approval by the Planning Commission in accordance with the requirements of the approved PUD plan and the Zoning Ordinance.
8. No site plan for development within the mixed-use commercial areas shall be approved without a demonstration, satisfactory to the Planning Commission, of reasonable progress toward the planning, design, financing, construction and occupancy of the congregate care and assisted living elements of the development. Evidence of reasonable progress shall include, but not be limited to, documentation of materials prepared and submitted to financing agencies, preliminary submittals and approvals by the applicant to financing or regulatory agencies, equity syndication specialists, preliminary and final approved construction drawings, market analyses, final cost estimates, trade payment breakdowns, or other materials that, in the sole judgment of the Planning Commission, provide assurance that the congregate care and assisted living elements of the development will be undertaken in a timely manner. It is expressly intended by this condition, that a failure to provide such documentation to the satisfaction of the Planning Commission shall, in and of itself, be sufficient grounds for denial of a site plan for any use in the mixed-use commercial areas of the development.
9. Those portions of the development abutting existing off-site residential properties shall include a 15-foot setback and structures located adjoining existing off-site residential properties may exceed 35 feet in height only if further setback two feet for each one foot of additional height in excess of 35 feet, but not to exceed 40 feet in mean height.

DECISION

Motion made by Tubbs to recommend approval of the East Towne PUD pursuant to the Findings of Fact and Exhibits A-N and amendments to the Findings of Fact and Conditions of Approval as discussed and subject to conditions set forth in the memo of September 25, 2008 and the additional conditions as discussed and attached. The motion was supported by Walters.

The motion carried unanimously.

DATE DECISION AND ORDER ADOPTED

_____	_____	_____
Date	Chairman	Secretary

9. Adjournment – Chair Nickels adjourned the meeting at 8:56pm.