

MEMO

Date: 2/16/09

To: East Bay Charter Township Planning Commission

From: Tina Allen, Acting Deputy Zoning Administrator

Re: Clarification of Zoning Ordinance Options

Attached you will find several options for possible Zoning Ordinance amendments to regulate extensions of Site Plan Reviews, Special Land Uses, and PUD's. You have been provided two possible options for changes in each of Sections 637.12, 601.6, and 820.10 with different time periods. Other than the differences in timing, the two options are identical. Section 830 covers performance guarantees and would remain the same for all of the other options.

EAST BAY CHARTER TOWNSHIP

ORDINANCE NO. 1-09 ^{alt. #1} OF 2009

AN ORDINANCE AMENDING SUBSECTION 637.12 OF THE EAST BAY TOWNSHIP ZONING ORDINANCE REGARDING THE DURATION OF APPROVALS OF LAND USE PERMITS AUTHORIZING A PLANNED UNIT DEVELOPMENT AND THE PROCEDURES REQUIRED 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 land use permit authorizing a PUD shall expire one (1) year from the date of final approval. Upon written request stating the reasons therefore, the Planning Commission shall make a recommendation to extend the land use 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 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 Land Use Permit authorizing a Planned Unit Development must be filed at least 90 (ninety) days prior to the expiration of the original 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 Land Use Permit authorizing the Planned Unit Development and no other property.

- c. Any such recommendation for an extension is subject to reasonable conditions requested by the Planning Commission as approved 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 Land Use Permit for a PUD. An 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 land use permit for a PUD had not been issued. The land use permit authorizing a PUD may be rescinded at any time by the Township Board of Trustees for violation of the 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 an order 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.

EAST BAY CHARTER TOWNSHIP

ORDINANCE NO. 1-09 ^{alt #2} OF 2009

AN ORDINANCE AMENDING SUBSECTION 637.12 OF THE EAST BAY TOWNSHIP ZONING ORDINANCE REGARDING THE DURATION OF APPROVALS OF 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 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 land use 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 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 Land Use Permit authorizing a Planned Unit Development must be filed at least 90 (ninety) days prior to the expiration of the original 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 Land Use Permit authorizing the Planned Unit Development and no other property.

- 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 Land Use Permit authorizing a PUD. A 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 order had not been issued. The land use permit may be rescinded at any time by the Township Board of Trustees for violation of the order 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 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.

EAST BAY CHARTER TOWNSHIP
ORDINANCE NO. 2-09 alt #1 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 one (1) year following approval by the Planning Commission. Upon written request stating the reasons therefore, the Planning Commission shall make a recommendation to 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 90 (ninety) 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 authorizing the Planned Unit Development and no other property.

- c. Any such recommendation for an extension is subject to reasonable conditions requested by the planning commission and 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. 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. 209 ^{alt #2} 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 make a recommendation to 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 90 (ninety) 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 authorizing the Planned Unit Development and no other property.

- 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. 3-09 alt. #1 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 one (1) year after the date of approval. Upon written request stating the reasons therefore, the Planning Commission shall grant an extension of 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 authorizing a Planned Unit Development must be filed at least 90 (ninety) 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 authorizing the Planned Unit Development and no other property.

- 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 approved extension of a site plan 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

EAST BAY CHARTER TOWNSHIP
ORDINANCE NO. 3-09 ^{alt #2} 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 grant an extension of 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 authorizing a Planned Unit Development must be filed at least 90 (ninety) 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 authorizing the Planned Unit Development and no other property.

- 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

EAST BAY CHARTER TOWNSHIP

ORDINANCE NO. 4-09 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 deposit 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, landscaping and buildings and/or
- b. restore the land to its condition prior to the approved development connected with the proposed development.

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 estimated cost of the improvements *or the cost to restore the land to its condition prior to the approved development*, to be made as determined by the applicant 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 *or to restore the land to its condition prior to the approved development* in the event of default by the applicant.

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. 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 deposited with the Township *and prior to the issuance of a land use permit, special land use permit or after an extension of a land use permit or special land use permit has been granted under this ordinance*, the applicant shall enter an agreement incorporating the provisions hereof with the Township regarding the performance guarantee.

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