

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
STATE BOUNDARY COMMISSION

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In the Matter of the Petition  
for Annexation of Territory  
in Clam Lake Township to the  
City of Cadillac in Wexford County

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Docket No. 13-AP-2

Dept. of Licensing & Regulatory Affairs  
**FILED**

MAR 17 2014 10 AP 0 2

STATE BOUNDARY COMMISSION

MOTION TO SUPPLEMENT THE RECORD, SUBMITTED BY CLAM LAKE  
TOWNSHIP AND HARING CHARTER TOWNSHIP

The Township of Clam Lake ("Clam Lake") and the Charter Township of Haring ("Haring") (collectively, the "Townships"), by and through their attorneys, Mika Meyers Beckett & Jones PLC, hereby submit this Motion to Supplement the Record, pursuant to Michigan Administrative Code Rule 123.43.<sup>1</sup> In support of this Motion, the Townships state as follows:

1. Subsequent to December 18, 2013, when the parties' 7-Day Submissions were required to be filed, the Townships further amended their Act 425 Agreement. *See Tab A (Second Amendment to Agreement for Conditional Transfer)* (hereafter, the "Second Amendment").

2. The Second Amendment was executed by the Townships on March 14, 2014, and was filed with the Wexford County Clerk and Secretary of State that same day, thus becoming effective on March 14, 2014.

3. The purpose of the Second Amendment is two-fold:

(a) It adds a savings/severability clause to Art. I, Sec. 6 of the Agreement ("Zoning and Building"), for the purpose of affirming and stating the Townships' express intent that,

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<sup>1</sup> Rule 123.34 authorizes the filing of a "memorandum brief on issues of fact or law, and such other pleadings as the commission may allow," up to seven (7) days prior to any Commission meeting on the docket.

in the event the zoning provisions of the Act 425 Agreement are deemed to be invalid or unenforceable, the remainder of the Act 425 Agreement shall remain binding and fully enforceable.

(b) It amends Art. I, Sec. 3 of the Agreement (“Economic Development Project”), to clarify that the mixed use, commercial/residential PUD project that is planned for the Transferred Area is to be designed and constructed in accordance with the recommendations of the *Cadillac Area Corridor Study*, which is a land-use planning document that was jointly prepared by the Townships and the City of Cadillac for the purpose of providing design concepts and standards that should be applied to future development occurring along the new US-131 interchanges, including at the M-55 interchange where Petitioners’ property is located.

4. The Townships have timely submitted the Second Amendment to the Boundary Commission, within one business day after it became effective.

5. The record in this matter should be supplemented to include the Second Amendment, so that the Boundary Commission is able to base its decision on a current and accurate version of the Townships’ Act 425 Agreement.

6. In addition, subsequent to December 18, 2013, when the parties’ 7-Day Submissions were required to be filed, Haring exercised its independent legislative authority by further amending the mixed use, commercial-residential planned unit development (“PUD”) regulations of the Haring Zoning Ordinance. *See Tab B (“Amended PUD Regulations”)*.

7. The Amended PUD Regulations were adopted by the Haring Board on March 14, 2014, and will become effective on March 24, 2014, seven days following publication of the notice of adoption on March 17, 2014.

8. The Amended PUD Regulations reflect the following principal changes, as compared to the original version of the PUD regulations that were submitted to the Boundary Commission with the Townships' 30-Day and 7-Day submissions:

(a) New provisions have been added to more fully implement the recommendations of the *Cadillac Area Corridor Study*. The new provisions relate to the following matters: underground installation of utility/service lines; maximum building height; design requirements for large parking lots; requirements for the width and landscaping of greenbelts along state highways and other major thoroughfares; street lighting; signage; and, access management.

(b) The Haring Planning Commission and Township Board have been granted the discretion to permit anywhere from 50% to 65% of a development site to be comprised of commercial uses.

(c) The Haring Planning Commission and Township Board have been granted the discretion to allow a residential development density of up to eight units per acre.

(d) The architectural requirements for commercial buildings have been made somewhat less stringent, with regard to percentages of approved materials and glass that must be included on a front building façade.

(e) In direct response to Petitioners' concerns, provisions have been added regarding pylon (pole) signs.

9. The Townships have timely submitted the Amended PUD Regulations to the Boundary Commission, within one business day after the amendments were adopted by the Haring Board.

10. The record in this matter should be supplemented to include the Amended PUD Regulations, so that the Boundary Commission is able to base its decision on a current and accurate

version of the zoning regulations that can be applied to the Transferred Area, if Petitioners seek rezoning of their property to the Mixed Use, Commercial/Residential PUD District.

WHEREFORE, the Townships respectfully request that the Boundary Commission accept the Second Amendment and the Amended PUD Regulations for filing in this matter, and that the record be supplemented to include these documents.

Respectfully submitted,

MIKA MEYERS BECKETT & JONES PLC  
Attorneys for The Township of Clam Lake and The  
Charter Township of Haring

Dated: March 17, 2014

By:   
\_\_\_\_\_  
Ronald M. Redick (P61122)  
900 Monroe Avenue, NW  
Grand Rapids, MI 49503-1423  
(616) 632-8000

TAB A

RECEIVED/FILED  
MICHIGAN DEPT OF STATE  
2014 MAR 14 PM 1:18  
OFFICE OF THE GREAT SEAL

## SECOND AMENDMENT TO AGREEMENT FOR CONDITIONAL TRANSFER

This Second Amendment to Agreement for Conditional Transfer ("Second Amended Agreement") is entered into by and between the Charter Township of Haring, a Michigan charter township, 515 Bell Avenue, Cadillac, Michigan 49601 (hereinafter referred to as "Haring") and the Township of Clam Lake, a Michigan general law township, 8809 East M-115, Cadillac, Michigan 49601-9786 (hereinafter referred to as "Clam Lake"), effective as of March 14, 2014.

WHEREAS, on May 8, 2013, Haring and Clam Lake approved an Agreement for Conditional Transfer (the "Agreement"), pursuant to Public Act 425 of 1984, MCL 124.21, *et seq.* ("Act 425"), providing for the conditional transfer of the lands described at Exhibit A (the "Transferred Area") from Clam Lake to Haring;

WHEREAS, the Agreement became effective on June 10, 2013, following execution of the Agreement by the Supervisors and Clerks of Clam Lake and Haring, and upon the filing of the Agreement with the Wexford County Clerk and Secretary of State;

WHEREAS, Haring and Clam Lake subsequently approved a First Amendment to Agreement for Conditional Transfer ("Amended Agreement") on September 9, 2013 and September 18, 2013, respectively, following public notice and public hearing, as required by law;

WHEREAS, the Amended Agreement became effective on October 21, 2013, following execution of the Agreement by the Supervisors and Clerks of Clam Lake and Haring, and upon the filing of the Amended Agreement with the Wexford County Clerk and Secretary of State;

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## SECOND AMENDMENT TO AGREEMENT FOR CONDITIONAL TRANSFER

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WHEREAS, on May 8, 2013, Haring and Clam Lake approved an Agreement for Conditional Transfer (the "Agreement"), pursuant to Public Act 425 of 1984, MCL 124.21, *et seq.* ("Act 425"), providing for the conditional transfer of the lands described at Exhibit A (the "Transferred Area") from Clam Lake to Haring;

WHEREAS, the Agreement became effective on June 10, 2013, following execution of the Agreement by the Supervisors and Clerks of Clam Lake and Haring, and upon the filing of the Agreement with the Wexford County Clerk and Secretary of State;

WHEREAS, Haring and Clam Lake subsequently approved a First Amendment to Agreement for Conditional Transfer ("Amended Agreement") on September 9, 2013 and September 10, 2013, respectively, following public notice and public hearing, as required by law;

WHEREAS, the Amended Agreement became effective on October 21, 2013, following execution of the Agreement by the Supervisors and Clerks of Clam Lake and Haring, and upon the filing of the Amended Agreement with the Wexford County Clerk and Secretary of State;

WHEREAS, Haring and Clam Lake now desire to amend Article I, Sections 3 and 6 of the Amended Agreement to clarify that the zoning provisions of the Amended Agreement are intended to be severable, and to further clarify the nature of the economic development project that is planned for the undeveloped portion of the Transferred Area;

WHEREAS, pursuant to Act 425, the Township Board of Haring held a public hearing on February 10, 2014 regarding this Second Amended Agreement, notice of which was given in the manner required by law;

WHEREAS, pursuant to Act 425, the Township Board of Clam Lake held a public hearing on February 11, 2014 regarding this Second Amended Agreement, notice of which was given in the manner required by law; and,

WHEREAS, the Haring Charter Township Board and the Clam Lake Township Board have each decided, by majority vote of the members duly elected and serving on each respective body, to enter into this Second Amended Agreement, and have authorized their respective representatives to execute this Amended Agreement on their behalf.

NOW, THEREFORE, it is hereby agreed as follows:

Section 1. Economic Development Project. Article I, Section 3 of the Amended Agreement is hereby amended so that it reads in its entirety as follows:

**3. Economic Development Project**

The Transferred Area is currently used, in part, for existing residential housing, and the balance is currently undeveloped. The Transferred Area is proposed for the implementation of an economic development project under Act 425, with said economic development project consisting of two aspects, as follows: (a) the construction of a mixed-use, commercial/residential development that is designed and constructed in accordance with principles of planned unit development and the recommendations of the *Cadillac Area Corridor Study* (September 1999), in order to balance the property owners' desire for commercial use with the need to protect the interests of surrounding residential property owners; and, (b) the provision of public

wastewater services and public water supply services to the Transferred Area, so as to foster the new mixed-use, commercial/residential development and to provide for the protection of the environment, including, but not limited to, protection of ground water and surface water on and below the Transferred Area.

Section 2. Savings Clause/Severability. Article I, Section 6 of the Amended Agreement is hereby amended by the addition of subsection d thereto, which shall read in its entirety as follows:

d. *Savings/Severability Clause.* If a court or administrative agency of competent jurisdiction finds that the zoning provisions of this Section 6 are invalid for reason of constituting an unlawful infringement or restriction upon Haring's legislative zoning authority, then Haring and Clam Lake agree as follows:

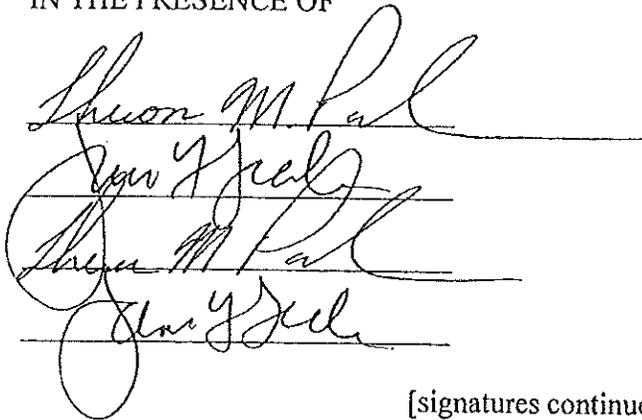
(i) Upon such a finding, Section 6 shall, automatically and without further action by the parties, be interpreted and applied as requiring only that Haring comply with Section 504(3) of the Michigan Zoning Enabling Act, MCL 125.3504(3), when Haring receives a request for approval of a mixed-used commercial/residential PUD on the undeveloped portion of the Transferred Area. The parties' intention is that Haring's compliance with said statute will promote the type of planned "economic development project" that is envisioned by Section 3 of this Agreement.

(ii) Such a finding shall not invalidate the other provisions of this Agreement, which shall remain binding and fully enforceable, in concert with Art. I, Section 6.d(i).

Section 3. Filing: Effective Date. In accordance with Act 425, this Second Amended Agreement shall be filed with the Wexford County Clerk and the Secretary of State Office of the Great Seal. The Second Amended Agreement shall become effective immediately upon such filing.

IN THE PRESENCE OF

CHARTER TOWNSHIP OF HARING

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By:   
Robert Scarbrough, Supervisor

By:   
Kirk Soule, Clerk

[signatures continue on next page]

IN THE PRESENCE OF

Jan 27 Sub  
Jessa Wade  
Jan 27 Sub  
Jessa Wade

TOWNSHIP OF CLAM LAKE

By: Dale H Rosser  
Dale Rosser, Supervisor

By: Delores Peterson  
Delores Peterson, Clerk

## EXHIBIT A

### LEGAL DESCRIPTION OF TRANSFERRED AREA

Part of the North fractional 1/2 of Section 2 and the West 1/2 of the Northwest fractional 1/4 of Section 1, Township 21 North, Range 9 West, Clam Lake Township, Wexford County, Michigan, more fully described as follows:

Beginning at the Northwest Corner of said Section 2; thence Easterly along the North line of said Section 2 to the North 1/4 Corner of said section; thence continuing Easterly along said North line of Section 2 to the Northeast Corner of said section; thence Easterly along the North line of said Section 1 to the Northeast Corner of said West 1/2 of the Northwest fractional 1/4 of Section 1; thence Southerly along the East line of said West 1/2 of the Northwest fractional 1/4 to the East – West 1/4 line of said Section 1; thence Westerly along said East – West 1/4 line to the 1/4 Corner common to said Sections 1 and 2; thence Westerly along the East – West 1/4 line of said Section 2 to the Center 1/4 Corner of said section; thence continuing Westerly along said East – West 1/4 line to the West right-of-way line of U.S. Highway 131; thence Northerly and Northwesterly along said right-of-way line to the South line of the North 836.10 feet of the Northwest fractional 1/4 of said Section 2; thence Westerly along said South line to the West line of said Section 2; thence Northerly along said West section line to the Point of Beginning.

**TAB B**

**CHARTER TOWNSHIP OF HARING  
COUNTY OF WEXFORD, STATE OF MICHIGAN**

At a special meeting of the Township Board of the Charter Township of Haring, County of Wexford, Michigan, held at the Haring Charter Township Hall, 515 Bell Ave., Cadillac, Michigan, on the 14th of March, 2014, at 9:30 a.m. Local Time.

PRESENT: Members: Baldwin, Soule, Scarbrough, McCain, Wilkinson, Whetstone,  
Fagerman

ABSENT: Members: None

The following preamble and ordinance was offered by Member Whetstone and seconded by Member Fagerman.

WHEREAS, the Township Board previously adopted the mixed-use commercial/residential planned unit development ("PUD") regulations of Section 422 of the Zoning Ordinance for the purpose of implementing the recommendations of the *Cadillac Area Corridor Study* (September 1999), as those recommendations relate to design concepts and standards that should be applied to future development and redevelopment occurring along the new US-131 interchanges, including at the M-55 interchange;

WHEREAS, the Township Board has determined that it is advisable and in the best interests of the Township to amend the mixed-use commercial/residential PUD regulations so as to make those regulations more conforming with the recommendations of the *Cadillac Area Corridor Study*; and,

WHEREAS, the Township Board therefore approves and adopts the following version of the mixed-use commercial/residential PUD regulations, which are consistent with and which more fully implement the recommendations of the *Cadillac Area Corridor Study*.

ORDINANCE NO. 2014-91

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CHARTER  
TOWNSHIP OF HARING

[Mixed-Use Commercial/Residential Planned Unit Development Regulations]

Section 1.     Mixed-Use Commercial/Residential PUD Regulations. Section 422 of the Zoning Ordinance of the Charter Township of Haring is hereby amended so as to read in its entirety as follows:

**SECTION 422.     MIXED-USE COMMERCIAL/RESIDENTIAL PUDs**

1.     **Purpose.** The purposes of the regulations stated in this Section 422 are as follows:
  - a)     To allow for limited commercial development in areas where, because of the nearby presence of federal or state highways, or major thoroughfares, there is a demand for commercial use, but due to the close proximity of established residential areas, there is a need to ensure that the commercial development is designed and constructed in a manner that is protective of surrounding residential populations.
  - b)     To implement site design standards that are consistent with the recommendations of the *Cadillac Area Corridor Study* (September, 1999), which is a land-use planning document that was jointly prepared by Haring Charter Township, Clam Lake Township and the City of Cadillac, for the purpose of providing design concepts and standards that should be applied to future development and redevelopment occurring along the new US-131 interchanges, including at the M-55 interchange.
  - c)     To provide architectural and site design standards in order to promote harmonious development in the Township.
  - d)     To preserve woodlands, view sheds and other natural features within the Township, to the extent practicable.
2.     **Findings.** The Township finds that the standards of this Section 422 are necessary to promote the health, safety and welfare of the Township and its residents, based on the following findings:
  - a)     Design standards are important safety and aesthetic considerations for the Township's future image and the citizens' quality of life.
  - b)     Architectural guidelines are necessary to ensure building design is consistent with the intended character of the area.

- 3) Commercial uses shall be physically separated from adjacent residential uses (both existing residential uses and those included within the PUD) by means of a berm and buffer zone of undeveloped or landscaped open space that is of significant size, width and height, so as to visibly screen the commercial uses from the residential uses, and so as to ensure that noises from the commercial phase do not interfere with the peace, quiet and enjoyment of the residential uses. The open space used to buffer the commercial and residential uses shall comprise not less than 10% of the total land area included in the PUD plan.
  - 4) The development shall be served by public wastewater and public water supply systems.
  - 5) Power, telephone lines and other utility/service lines shall installed underground on the development site.
- d) Architecture
- 1) All proposed commercial buildings shall utilize quality architecture to ensure a building is compatible with surrounding uses, protects the investment of adjacent landowners, blends harmoniously with the natural features and promotes a high quality image to those living in and traveling through the Township.
  - 2) The applicant is required to submit and present architectural concepts and alternatives at a study session with the Planning Commission to receive comments on compliance with the architectural guidelines prior to preparations of detailed design drawings.
  - 3) Building designs shall be reviewed by the Planning Commission as a part of final plan review under the following criteria:
    - i) Commercial buildings shall possess architectural variety.
    - ii) Commercial buildings shall be consistent with the scale and proportion of existing structures in the surrounding area. In addition, commercial buildings shall be no higher than surrounding, mature tree masses.
    - iii) For commercial buildings, a minimum of seventy-five percent (75%) of the exterior finish material of all front building facades (excluding the roof) visible

- c) Commercial growth and development put an increased demand upon natural resources. The protection of natural resources is a matter of paramount public concern, as provided by Article IV, Section 52 of the State of Michigan Constitution and the Michigan Environmental Protection Act of 1970, MCL 324.1701, *et seq.*

**3. Mixed-Use Commercial/Residential PUD Regulations.**

- a) Mixed-use commercial/residential PUDs are permitted in the Township only in accordance with the provisions of this Section 422.
- b) Permitted Uses. Uses that may be approved within a mixed-use commercial/residential PUD shall include the following:

- 1) Any use permitted by right in the "C" General Commercial Zoning District.
- 2) The following uses that are permitted by special land use in the "C" General Commercial Zoning District:
  - i) Churches and religious institutions.
  - ii) Veterinary clinics and kennels.
  - iii) Bars and nightclubs (not including "sexually oriented businesses").
- 3) Any use permitted by right or by special land use permit in the "R" Residential Zoning District, except that "transitional/shelter housing" shall not be permitted.

- c) General Requirements.

- 1) Commercial uses shall comprise not more than 65% of the developed land area, exclusive of open space. Provided, however, that the Planning Commission or Township Board may require a lesser percentage (but not less than 50%) of commercial use on a particular development site, if it is determined that such lower percentage is necessary to protect surrounding residential populations, to ensure harmonious relationships with adjacent land uses, or to otherwise promote the purposes of this Section.
- 2) The density of development in the residential phase of the PUD shall not be more than eight (8) units/acre. Multifamily buildings shall be designed and constructed to avoid excessive length and box-like appearance and to have varied architectural features.

from the public street, private street, parking lot or adjacent residentially zoned land, exclusive of window areas, shall consist of facing brick, cut stone, split face block, fluted block, scored block, native, field stone, cast stone or wood with an opaque or semi-transparent stain, or bleaching oil. Any other block or building material not specifically listed may be reviewed and approved by the Planning Commission if the material is compatible with surrounding uses, protects the investment of adjacent landowners, blends harmoniously with the natural features and promotes a high quality image to those living in and traveling through the Township.

- iv) Exterior Insulation and Finishing Systems (EIFS) material shall not be the primary building material. The remaining maximum twenty-five (25) percent of the facade may utilize other material for architectural detailing such as fiberglass reinforced concrete, polymer plastic (fypon) or EIFS. The Planning Commission may permit other materials for facades not visible from a public street that are adequately screened from adjoining land uses.
- v) Front building facades for commercial buildings shall provide a minimum 20% glass window but shall not exceed 80% glass. Calculations are exclusive of the roof area. The Planning Commission may allow a lower percentage of glass windows where it has been demonstrated that industry-recognized safety or security practices for the use being proposed mandate a lower percentage of glass windows.
- vi) Building materials and colors shall be related to and harmonious with the surrounding area.
- vii) Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape. Subtle colors shall be used for roofing material. Metal roofs shall only be permitted if compatible with the overall character of the building, and architectural elements are used to significantly reduce the roof mass when viewed from the street.
- viii) Commercial buildings shall provide architectural features, details, and ornaments such as archways, colonnades, cornices, peaked rooflines or towers.

- ix) Building walls (both commercial and residential) over 100 feet in length shall be broken up with items such as varying rooflines, varying building lines, recesses, projections, wall insets, arcades, windows, architectural accents, bands of complementary building materials and trees.
- x) Commercial building entrances shall utilize windows, canopies, and/or awnings, provide unity of scale, texture, and color and provide a sense of place.
- xi) Rooftop equipment shall be illustrated on the plans and shall be screened from view by parapet walls or other architectural elements that complement the overall building design.
- xii) Commercial building rear facades shall be constructed to a finished quality that is comparable to the front facade where visible to a public street or residential district or use, but strict adherence to the percentage requirements for finish materials and window glass, as stated in subsections (iii) and (v), shall not be required. This subsection shall not apply to a building rear facade that is viewable only from highway U.S.-131, and which is not otherwise viewable from a residential district or use.
- xiii) Overhead canopies or similar structures, when allowed, shall be designed to be compatible with the architectural characteristics of the principal building such as peaked roofs, shingles, support structures that match or simulate materials of the principal building, lighting fixtures fully recessed into the canopy and in neutral colors.
- xiv) Exterior neon, LCD or LED lights (including such interior lights that are clearly visible from the exterior) are generally prohibited, except that they may be used only as architectural detail, they must be complementary to the overall design of the building, and they must be specifically found by the Planning Commission to be compatible with surrounding properties. Such lighting shall be indicated on the building elevation and allowed only as part of site plan approval. The provisions of this subsection do not apply to small interior neon, LCD or LED signs that are used to communicate directional or

operational information such as "exit", "open" and "closed."

xv) The commercial portion of the mixed-use PUD shall complement the overall PUD plan and the commercial buildings therein shall have an architecture and appearance that are reasonably compatible with the buildings in the residential portion of the PUD.

xvi) Loading docks, refuse accumulation areas, truck maneuvering area and other utility or service areas shall be appropriately screened from view by landscaping, berms or other effective means.

e) Landscaping and Overall Site Design

Landscaping and design elements of the PUD plan shall comply with the following requirements:

- 1) Plants that have been identified as invasive or potentially invasive plants in the region shall not be used for any landscaping purposes.
- 2) The overall design shall promote the impression of a natural landscape.
- 3) Landscaping shall be provided along walls to reduce the visual impact of building mass as viewed from the street.
- 4) Retention, detention and the overall stormwater system shall be designed to use "best management practices" and create the appearance of a natural pond or feature including gentle (5:1) or varying side slopes, irregular shapes, water tolerant grasses and seed mixes at the bottom of the pond/basin; appropriate flowers, shrubs and grasses along the banks based on environment (wet, dry, sedimentation basin v. pond) to improve views, filter runoff and enhance wildlife habitat.

5) *Parking Lots*. The following landscaping requirements shall apply to parking lots:

- i) Parking lots, or any parts thereof, which are located in the front yard or which are adjacent to or visible from within 20 feet of any public right-of-way (excepting the highway U.S.-131 right-of-way) shall have perimeter landscaping, between the parking lot and right-of-way, as follows:

- A. The perimeter landscaping shall include a landscaped area measuring at least ten feet in width.
  - B. The landscaped area shall include at least one tree, measuring at least eight feet in height at the time of planting, for every 30 feet, or fraction thereof, of street frontage of the parking lot.
  - C. The landscaped area shall also include a continuous screen, measuring at least thirty-six inches in height above the street grade, consisting of a hedge, berm, brick wall, or combination thereof. The Planning Commission may determine the location of the screen so that it does not cause a traffic hazard, vision obstruction or other hazard to public safety.
- ii) For parking lots of over 50 spaces, the interior of the parking lot shall have one square foot of landscaped area for each 15 square feet of paved area. The following requirements shall apply to the interior landscaped areas:
- A. Traffic islands shall be located to improve traffic flow and views.
  - B. Traffic islands shall have a minimum width of 18 feet and a minimum area of 150 square feet.
  - C. Details on traffic islands shall be provided on the PUD site plan, including radii, dimensions, adjacent parking space depth, ground cover and any lighting or irrigation.
  - D. There shall be at least one deciduous tree for each 150 square feet, or fraction thereof, of interior landscaped area. Around each tree, there shall be an open land area of at least 75 square feet, with a minimum diameter of four feet at the tree trunk.
  - E. All interior landscaped areas of a parking lot shall be designed as "bio-retention" areas, to facilitate the treatment and ground absorption of stormwater runoff using a combination of

microbial soil process, infiltration, evaporation, and appropriate plantings.

- iii) The Planning Commission or Township Board may modify or waive some or all of the requirements of this subsection 5, if it is determined that the goals and objectives of this Section would be better served by alternative requirements for parking lot screening or interior parking lot landscaping.
- 6) Loading and service bay doors shall not face a public street. Such doors shall be in the rear of the site. Where this is not practical, location on the side may be permitted provided additional walls and landscaping are provided, and/or such areas are recessed, to minimize the negative visual impact. This subsection shall not apply to a loading or service bay door that is viewable only from highway U.S.-131, and which is not otherwise viewable from a residential district or use.
  - 7) Generally, curbs must be used throughout the parking lot and paved areas. The Planning Commission may grant an exception upon finding that overall stormwater disposition will be enhanced, that snow removal will be facilitated, or that there will be other beneficial improvements to the overall site design.
  - 8) *Outdoor Storage.* The following requirements shall apply to outdoor storage:
    - i) The outdoor display of items for sale, whether a few items or on a large-scale basis, such as motor vehicle sales establishments, shall be arranged in a neat and orderly fashion of rows and columns. All outdoor display items for sale shall be setback from the frontage road right-of-way so as to be located, at a minimum, inside of the greenbelt required by subsection (10), below, and a minimum of twenty (20) feet from any side property line.
    - ii) The outdoor storage of other items, such as vehicles, equipment and extra supplies, shall be performed by placing the items in a fenced and screened area, to the side or rear of the principal building on the premises.
  - 9) Fences, if proposed, must be shown on the site plan, including details on materials and color. Fences shall be durable and decorative in nature. Chain link fences shall only be approved for a location not generally visible to the public or

dwelling unit occupants. Any visible segments of fence will be vinyl coated with additional landscaping provided to screen the view.

- 10) A minimum 30 foot greenbelt is required along state highways and other major thoroughfares (excluding highway U.S.-131), as measured from the edge of the highway or road right-of-way. Said greenbelt shall be landscaped and planted in accordance with Section 422.3(e)(5)(i)B and C (excluding approved driveways), except that:
  - i) The spacing of the required trees may be increased to one tree for every 50 feet, or fraction thereof, of street frontage; and,
  - ii) A cluster of three (3) trees may be substituted for each individual tree location, and if this is done, the trees in each cluster shall measure at least six feet in height at the time of planting.
- 11) Buildings shall be set back a minimum of 100 feet from the right-of-way for state highways and other major thoroughfares, excepting the highway U.S.-131 right-of-way.

f) Commercial Lighting

- 1) All exterior lighting shall be within fully-shielded fixtures, so that no light may escape above the horizontal plane. The wattage of any single lamp fixture shall not exceed 320 watts.
- 2) Lighting mounted onto poles or any structures intended primarily for mounting of lighting shall not exceed a mounting height of 40% of the horizontal distance of the light pole from the property line, nor a maximum height of 30 feet, whichever is lower.
- 3) The use of wood poles for street lighting is prohibited. All street lights shall be mounted on fabricated metal or cement poles that are painted a dark-hued, non-reflective color. Poles with a fluted or other unique design may be approved.
- 4) No lighting on any site shall cause or create obtrusive light, or light which protrudes onto any adjacent or nearby residential property.

g) Signage

- 1) Billboards are prohibited within a mixed-use commercial/residential PUD.

- 2) Pylon signs (also known as pole signs) shall generally be prohibited; provided, however, that the Planning Commission may, in its discretion, allow a pylon sign on a development site, based on consideration of the following factors:
  - i) Location of the sign on the development site;
  - ii) The size, height and other dimensions of the sign;
  - iii) The presence of scenic vistas that might be diminished by the sign;
  - iv) The proximity of the sign to residential uses and/or residentially-zoned areas; and,
  - v) Other similar factors that the Planning Commission considers to be relevant in evaluating the compatibility of the sign with surrounding land uses.
  
- 3) Where a freestanding sign is approved, it shall be a ground sign (also known as a monument sign). If a monument sign is permitted, the size of the sign may be increased 10% above that otherwise permitted if the sign base materials match the building, and foundation plantings are provided around the sign base.
  
- h) Access Management Standards. Access points shall meet the following standards. These standards are based on considerable research in Michigan and nationally and were prepared concurrent with guidelines promoted by the MDOT.
  - 1) Each lot shall be permitted one access point. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road.
  - 2) An additional driveway may be permitted by the Planning Commission upon finding the conditions i and ii, or iii and iv, below, exist. The additional driveway may be required to be along a side street or a shared access with an adjacent site.
    - i) The site has a frontage of at least 300 feet and the spacing standards between access points listed below are met; and,
    - ii) The additional access will not prevent adjacent lands from complying with the access spacing standards when such lands develop or redevelop in the future.  
Or;

- iii) A traffic impact study demonstrates that the site will generate over 300 trips in a peak hour or 3000 trips daily, or 400 and 4000, respectively, if the site has access to a traffic signal; and,
  - iv) The study demonstrates the additional driveway will improve conditions for the motoring public and will not create negative impacts on through traffic flow.
- 3) Access points shall provide the following minimum spacing from the other access points along the same side of the public street (measured from centerline to centerline), based on the posted speed along the public street segment:

<u>Posted Speed Limit</u>	<u>Spacing*</u>
35 mph or less	150 feet
40 mph	185 feet
45 mph	230 feet
50 mph	275 feet
55 mph	350 feet

\* Greater spacing may be required by the MDOT or Wexford County Road Commission, as applicable.

- 4) Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.
- 5) Access points shall be aligned with driveways on the opposite side of the street or offset a minimum of 250 feet, centerline to centerline. The Planning Commission or Township Board may reduce this to not less than 150 feet where each of the opposing access points generate less than 50 trips (inbound and outbound) during the peak hour of the public street or where sight distance limitations exist.
- 6) Minimum spacing of access points from intersections shall be in accordance with the table below (measured from nearest pavement edge to nearest pavement edge):
  - i) Signalized locations: 200 feet
  - ii) Un-signalized locations: 150 feet
- 7) Where direct access consistent with the various standards above cannot be achieved, access should be via a shared

- 7) Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission or Township Board may require development of frontage roads, or rear service drives where such facilities can provide access to signalized locations, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress. When required, frontage roads or service drives shall be constructed in accordance with the following standards:
- i) Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of twenty- five (25) feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum 60 feet of throat depth provided at the access point.
  - ii) The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s).
  - iii) In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This may require posting of a financial performance guarantee.
- 8) Driveways shall be located to provide safe sight distance, as determined by the applicable road agency.
- 9) No driveway shall interfere with municipal facilities such as street light or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating such driveways shall be at the expense of the abutting property owner.

i) Other

The PUD plan for a mixed-use commercial/residential PUD shall be reviewed in accordance with, and shall otherwise comply with, the PUD regulations of this Ordinance, as stated in Sections 401 through 420, to the extent that those regulations are not inconsistent with the above minimum requirements. Where the regulations of this Section 422 are more stringent, the more stringent regulations shall apply.

Section 2. Publication/Effective Date. A summary of the regulatory effect of this Ordinance shall be published in a newspaper of general circulation in the Township within 15 days after adoption. This Ordinance shall become effective seven days after such publication.

AYES : All present  
NAYS: None  
ABSENT: None

ORDINANCE DECLARED ADOPTED.

  
\_\_\_\_\_  
Robert Scarbrough  
Township Supervisor

  
\_\_\_\_\_  
Kirk Soule  
Township Clerk

First reading: 03/10/14  
Second reading: 03/14/14  
Ordinance becomes effective: 03/24/14

STATE OF MICHIGAN     )  
  ) ss.  
COUNTY OF WEXFORD    )

**CERTIFICATION**

I, the undersigned, the duly qualified and acting Clerk of the Charter Township of Haring, Wexford County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board at meeting on March 14, 2014, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1986, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have hereunto affixed my official signature on the 14 day of March, 2014.

Kirk Soule  
Kirk Soule  
Township Clerk

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
STATE BOUNDARY COMMISSION

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In the Matter of the Petition  
for Annexation of Territory  
in Clam Lake Township to the  
City of Cadillac in Wexford County

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Docket No. 13-AP-2

**PROOF OF SERVICE**

I, Marcy L. Link, hereby state that I am an employee in the law firm of Mika Meyers Beckett & Jones PLC, and that on March 17, 2014 served a copy of the following documents:

**Motion to Supplement the Record, Submitted by Clam Lake Township and  
Haring Charter Township**

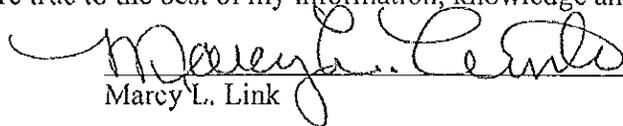
upon the following individuals by e-mail at the address indicated:

Michael D. Homier  
E-mail: mhomier@fosterswift.com

Randall W. Kraker  
E-mail: rwraker@varnumlaw.com

I declare that the statements above are true to the best of my information, knowledge and belief.

Dated: March 17, 2014

  
\_\_\_\_\_  
Marcy L. Link