



*Vision Statement:*

*As the Town of Aberdeen grows, we will retain our unique history and character and provide the services and amenities to continuously enhance the quality of life for our citizens.*

Agenda  
Work Session  
Aberdeen Town Board

October 12, 2015  
Monday, 6:00 p.m.

Robert N. Page Municipal Building  
Aberdeen, North Carolina

1. Grants Update Discussion with Company Representatives.
2. Sister City Project – Denise Baker.
3. An Ordinance Declaring a Road Closure for the Town of Aberdeen 2015 Christmas Parade. **Consider approval at Work Session**
4. Denial Document for Conditional Use Permit #15-03 submitted by Bethesda Ives, LLC. **Consider approval at Work Session**
5. Career Development Program Revision for Police Department. **Consider approval at Work Session**
6. Discussion of Proposal for Changes to Townhome Component of Legacy Lakes Development.
7. UDO Text Amendment #15-09 Regarding Permissible Uses. **Consider approval at Work Session**
8. UDO Text Amendment #15-10 Regarding Special Exceptions. **Consider approval at Work Session**
9. UDO Text Amendments. **Schedule for Public Hearing on 10/26/15**
  - a. UDO Text Amendment #15-04 Regarding Military Notification.
  - b. UDO Text Amendment #15-08 Regarding Definition for Hotels.

- c. UDO Text Amendment #15-13 Regarding Building Design.
- 10. Other Business.
- 11. Closed Session pursuant to N.C.G.S. 143-318.11(a)(3) to discuss a matter within the attorney-client privilege.
- 12. Adjournment.

SPECIAL ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES OR IMPAIRMENTS WILL BE MADE UPON REQUEST TO THE EXTENT THAT REASONABLE NOTICE IS GIVEN TO THE TOWN OF ABERDEEN.



## TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** Daniel Martin **Department:** Planning

**Contact Phone #** 944-4506 **Date Submitted:** 10/6/2015

**Agenda Item Title:** Grant Update Discussion with Company Representatives

**Work Session - Board Action (date of meeting should be filled in on line) :**  
Information Only  \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Approval at work session - immediate action \_\_\_\_\_

**Regular Board Meeting - Board Action (date of meeting should be filled in on line):**  
New Business \_\_\_\_\_ Information Only \_\_\_\_\_  
Old Business \_\_\_\_\_ Consent Agenda \_\_\_\_\_  
Public Hearing \_\_\_\_\_ Informal Discussion & Public Comment \_\_\_\_\_  
Other Business \_\_\_\_\_

**Summary of Information:**  
This item is related to all "off schedule" grants administered by the Planning Dept. Per the Board's request, company representatives have been asked to attend this work session to discuss options going forward. Timothy Simmons (Pactiv, LLC), Chris Gilder and Stephanie Daugherty (Meridian Zero Degrees), and Ricky Watts (Specialized Services and Personnel) were contacted via email, Outlook calendar invitations, and telephone calls.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**



**MEMORANDUM TO THE BOARD OF COMMISSIONERS – October 12, 2015 Work Session**

**Prepared by:**

Daniel Martin,  
Community /  
Downtown  
Development  
Planner

**Background**

At the September 28<sup>th</sup> regular meeting, during the grant update presentation, the Board of Commissioners requested that representatives from each participating company associated with the 2012 Small Business and Entrepreneurial Assistance Program (SBEA) and Pactiv (who is involved in both the Sewer Improvement Project and the Building Reuse and Restoration project) attend the next work session scheduled for October 12, 2015. In preparation for this meeting, I have given a brief background and status update for each of these featured businesses:

**2012 SBEA:**

Specialized Services and Personnel (Ricky Watts)

- Baseline job count at inception = 94 employees
- Job creation commitment = 1 FT employee
- Current job count according to 2<sup>nd</sup> quarter NCUI 101 forms = 147 employees
- Amount of allocated grant funds = \$21,250
- Amount of grant funds expended to date = \$15,209.04

Meridian Zero Degrees (Chris Gilder)

- \*Adjusted reduced baseline job count = 37 employees
- Job creation commitment = 7 FT employees
- Current job count according to 2<sup>nd</sup> quarter NCUI 101 forms = 44 employees
  - o Note, the actual number of employees per Stephanie Daugherty = 28
- Amount of allocated grant funds = \$148,750
- Amount of grant funds expended to date = \$23,602.90

## One Eleven Main

- On October 6, 2015, One Eleven Main submitted a letter requesting de-obligation of funds and to be removed from this grant. No funds were expended.

\*On March 13, 2015 the Town received confirmation from the NC Dept. of Commerce that Meridian's baseline job count had been reduced to from 64 employees to 37. This notice came as a result from the request issued by representatives at Meridian. This March 13<sup>th</sup> notification also confirmed that the grant had been extended one year; all activities are to be completed by April 30, 2016. For all jobs not created, each business is required to pay \$21,250.

## Project Huggies and Sewer Improvement Project

Pactiv (Timothy Simmons)

- Baseline job count at inception = 46 employees
- Job creation commitment = 35
- Current job count according to the 10/6/15 monthly report = 60 employees
- All funds have been expended and the projects are complete
- \*Grant closeout = January 31, 2016 for the Sewer Improvement Project & February 28, 2016 for the Building Reuse and Restoration grant project

\*The closeout dates shown above are inclusive of the one year extension granted by the NC Department of Commerce. One piece to point out is for the Building Reuse and Restoration grant project, a six month maintenance period is built in to the timeline. In other words, the fulltime jobs were to have been created by August 28, 2015 and maintained until the February 28, 2016 closeout date. Staff and Timothy Simmons are submitting monthly reports and conducting teleconferences with grant representative, Hazel Edmond, per her request during the July 14 2015 teleconference when she was informed of the situation. For each job not created for the Sewer Improvement Project the company is required to pay \$7,364 and for the Building Reuse and Restoration project they are required to pay \$5,000.



# TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** Adam Crocker **Department:** Parks and Recreation Department

**Contact Phone #** 944-4573 **Date Submitted:** 10/2/15

**Agenda Item Title:** Christmas Parade Ordinance

**Work Session - Board Action (date of meeting should be filled in on line) :**  
**Information Only** \_\_\_\_\_  
**Public Hearing** \_\_\_\_\_  
**Approval at work session - immediate action** 10/12/15

**Regular Board Meeting - Board Action (date of meeting should be filled in on line):**  
**New Business** \_\_\_\_\_ **Information Only** \_\_\_\_\_  
**Old Business** \_\_\_\_\_ **Consent Agenda** \_\_\_\_\_  
**Public Hearing** \_\_\_\_\_ **Informal Discussion & Public Comment** \_\_\_\_\_  
**Other Business** \_\_\_\_\_

**Summary of Information:**  
Ordinance declaring road closures for the Aberdeen Christmas Parade.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**

**AN ORDINANCE DECLARING A ROAD CLOSURE FOR THE TOWN OF ABERDEEN  
2015 CHRISTMAS PARADE**

WHEREAS, the Aberdeen Board of Commissioners acknowledges a long tradition of providing an annual Christmas parade for the pleasure of its citizens; and

WHEREAS, the Aberdeen Board of Commissioners acknowledges that its citizens realize a financial benefit from holding an annual Christmas parade; and

WHEREAS, the Aberdeen Board of Commissioners acknowledges that a parade requires approximately two (2) hours to install signing and traffic control, and also requires approximately two (2) hours for removing signs, traffic control, and litter;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ABERDEEN THE FOLLOWING:

**Section 1.** Pursuant to authority granted by G.S. § 20-169, the following roads, which are part of the State highway system, are hereby declared to be temporarily closed **on December 12, 2015 between the hours of 10:00 a.m. and 12:00 p.m.:**

1. NC 5 (East Main Street) from South Pine Street to North Sycamore Street, and
2. SR 2055 (Poplar Street) from East Maple Avenue to East South Street.

**Section 2.** This ordinance shall become effective when signs are erected giving notice of the limits and times of the parade, and implementation of adequate traffic control to guide through vehicles around the parade route.

**Section 3.** A copy of this adopted ordinance shall be provided to the North Carolina Department of Transportation.

**Section 4.** All provisions of any town ordinance or resolution in conflict with this ordinance are repealed.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

Absent or Excused: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert A. Farrell, Mayor

Attest:

\_\_\_\_\_  
Regina Rosy, Town Clerk



# TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** P Graham **Department:** Planning

**Contact Phone #** 4517 **Date Submitted:** 10/5/15

**Agenda Item Title:** Approval of Denial Document for Conditional Use Permit CU #15-03 Submitted by Bethesda Ives, LLC

**Date of Board Meeting to hear this item:** 10/12/2015

<b>Board Action Requested:</b>	
New Business <input checked="" type="checkbox"/>	Information Only <input type="checkbox"/>
Old Business <input type="checkbox"/>	For Action at Future Meeting <input type="checkbox"/> Date _____
Public Hearing <input type="checkbox"/>	Informal Discussion & Public Comment <input type="checkbox"/>
Other Business <input type="checkbox"/>	Consent Agenda <input type="checkbox"/>

**Summary of Information:**  
The Town Attorney has requested that the Board approve the order of denial for the project.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**

**DECISION OF THE TOWN OF ABERDEEN BOARD OF COMMISSIONERS**

**Case Number:** Conditional Use Permit CU #15-03

**Hearing:** The Town of Aberdeen Board of Commissioners conducted a Public Hearing on June 22, 2015 to consider Conditional Use Permit application CU #15-03 as submitted by Bethesda Ives, LLC to allow a major subdivision on the Property including all or part of PID #00054112, located west of Bethesda Road, and continued the hearing until August 10, 2015 and again until August 24, 2015. At the request of the Applicant, the Public Hearing was again continued until September 14, 2015, and on that date was continued without hearing new evidence until September 28, 2015.

**FINDINGS OF FACT**

1. Bethesda Ives, LLC is the owner of record of property identified as Moore County PID #00054112 (the "Property").
2. On May 7, 2015, Ms. Tammy Lyne, on behalf of Bethesda Ives, LLC submitted an application for a Conditional Use Permit to develop a major subdivision on the Property. Bethesda Ives, LLC and its representatives are collectively referred to herein as the "Applicant."
3. The May 7, 2015 application was determined to be complete by staff.
4. The May 7, 2015 application proposes a thirty-eight (38) lot subdivision on a vacant tract comprising 51.46 acres.
5. The proposed site details are as follows:

<b>Zoning</b>	R20-16 (Low Density Residential)
<b>Adjacent Zoning</b>	North: R20-16 East: R20-16 South: R20-16, I-H (Heavy Industrial) West: R10-10
<b>Watershed</b>	Property is not located in a protected watershed
<b>Floodplain</b>	N/A
<b>Existing Use in Vicinity Project Area</b>	Low density residential, railroad related activities
<b>Existing Use on Property</b>	Vacant

6. On May 21, 2015 the Town of Aberdeen Planning Board voted unanimously to recommend approval with conditions of the conditional use permit application to the Town of Aberdeen Board of Commissioners (the "Board of Commissioners" or the "BOC").
7. Proper notice of the public hearing before the Board of Commissioners was given as required by State law and the Aberdeen Unified Development Ordinance ("UDO").
8. UDO § 152-146, "Table of Permissible Uses," authorizes major subdivisions in the R20-16 zoning district with the issuance of a conditional use permit. The Board of Commissioners considers and approves or denies requests for conditional use permits. On June 22, 2015 the Board of Commissioners held a public hearing on the conditional use permit application. The hearing was continued until August 10, 2015, where it was further continued without hearing new evidence until August 24, 2015. The Applicant requested an additional continuation until September 14, 2015. On that date the hearing was continued without receiving new evidence until September

28, 2015. The Applicant was present on June 22, 2015; September 22, 2015 and September 28, 2015 to address the Board and respond to questions.

9. All witnesses who presented evidence during the hearing were sworn in.
10. Planning Director Pamela Graham presented the proposal and staff report which were entered into the record.
11. UDO § 152-218(C) requires that, "All permanent dead-end streets . . . shall be developed as cul-de-sacs in accordance with the standards set forth in subsection (D) of this section. Except where no other practicable alternative is available, such streets may not extend more than 500 feet, and in no case shall be permitted to be over 900 feet (measured to the center of the turnaround)."
12. Ms. Graham testified that for the purposes of determining compliance with UDO § 152-218(C) the Town staff has historically measured the length of the cul-de-sac from the nearest street connection to the center of the turnaround.
13. The May 7, 2015 application depicts a proposed "Road A." The Development Summary for the plat states that the total length of Road A is 2,248.97 feet. Road A ends in a cul-de-sac turnaround.
14. The Development Summary further states that the segment of Road A "from [proposed Road D] to cul-de-sac" is 899.64 feet in length. Proposed Road D is depicted as a stub out road.
15. Proposed Road D is the nearest street connection to the Road A cul-de-sac turnaround. Using the method adopted by the Town staff, the length of the Road A is, therefore, 899.64 feet for the purposes of UDO § 152-218(C).
16. The Applicant presented evidence that Road A is proposed to be 899.64 feet long because of the presence of wetlands on the Property.
17. On September 14, 2015, the Applicant presented a second plat which the Applicant referred to as "Option B." Option B depicts the same subdivision layout as the May 7, 2015 submission, except for the following changes:
  - A. The location of Road D is moved,
  - B. Road D is changed from a stub out road to a cul-de-sac,
  - C. A new proposed "Road E" is added, and
  - D. Road E is located 235.91 feet from the cul-de-sac bulb.

Under "Option B," Road A is 235.91 feet for the purposes of UDO § 152-218(C).

18. The Applicant never withdrew the May 7, 2015 application. Instead, the Applicant stated that it preferred the original submission but would accept approval of "Option B."

### **CONCLUSIONS OF LAW**

1. The Town of Aberdeen Board of Commissioners has jurisdiction over the persons and subject matter in this action, and the parties are properly before this Board.
2. As stated above, UDO § 152-218(C) requires that, "All permanent dead-end streets . . . shall be developed as cul-de-sacs in accordance with the standards set forth in subsection (D) of this section. Except where no other practicable alternative is available, such streets may not extend more than 500 feet, and in no case shall be permitted to be over 900 feet (measured to the center of the turnaround)."
3. The UDO does not specify how the length of a proposed cul-de-sac street should be measured.

4. In the absence of more specific statutory guidance, the Board concludes that the Town staff has correctly measured the length of Road A for the purposes of UDO § 152-218(C). Namely, the Board agrees that for the purposes of UDO § 152-218(C) the length of Road A is to be measured from the nearest street connection to the center of the cul-de-sac turnaround.
5. Using this interpretation and any other possible interpretation, Road A, as depicted in the May 7, 2015, application, exceeds 500 in feet in length.
6. The Applicant has not submitted evidence sufficient to prove that there are no other practicable alternatives available to building Road A longer than 500 feet.
7. For these reasons, the May 7, 2015 application does not comply with the requirements of the UDO.
8. Further, the Board is not required to consider or approve the "Option B" preliminary plat.

**DECISION**

Based on these Findings of Fact and Conclusions of Law, the application for Conditional Use Permit CU #15-03 is denied.

The foregoing Findings on motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, is adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Ayes: \_\_\_\_\_

Nos: \_\_\_\_\_

Absent or Excused: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert A. Farrell, Mayor

ATTEST:

\_\_\_\_\_  
Regina M. Rosy, Town Clerk



## TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** Regina Rosy / Tim Wenzel      **Department:** Police Department

**Contact Phone #** 910-944-4515      **Date Submitted:** 10/6/2015

**Agenda Item Title:** Police Department Career Development Program Revision

**Work Session - Board Action (date of meeting should be filled in on line) :**  
**Information Only** \_\_\_\_\_  
**Public Hearing** \_\_\_\_\_  
**Approval at work session - immediate action**  \_\_\_\_\_

**Regular Board Meeting - Board Action (date of meeting should be filled in on line):**  
**New Business** \_\_\_\_\_      **Information Only** \_\_\_\_\_  
**Old Business** \_\_\_\_\_      **Consent Agenda** \_\_\_\_\_  
**Public Hearing** \_\_\_\_\_      **Informal Discussion & Public Comment** \_\_\_\_\_  
**Other Business** \_\_\_\_\_

**Summary of Information:**  
Attached is the current career development program, and a new proposed career development program (CDP) for the Police Department. Chief Wenzel discovered that the current CDP was not being implemented due to it being unsustainable and not included in budgeted dollars. However, in an effort to maximize employee potential and promote growth and development within the Police Dept., we feel it is important to provide these opportunities through the CDP, but with smaller pay increases along the way. The new proposed CDP meets the objectives of providing financial incentive for officers to further their training, but will be sustainable with budgeted dollars for the department.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**

**Aberdeen Police Department  
Career Development Program**

**Police Officer Trainee**

(0 to 6 Months) 5% Increase and released from probationary status

**Police Officer I**

(6 to 18 Months) 5% Increase in salary after completion of Police Officer I training and a minimum 18 months employment with the Town of Aberdeen.

Radar Operator Training	40 Hours
Intoxilyzer Operator Training	40 Hours
Rapid Deployment Training	8 Hours
MDT Training	8 Hours
Additional Approved Training	40 Hours
Completion of State Mandated In Service Training	

**Police Officer II**

(18 to 30 Months) 5% Increase in salary after completion of Police Officer II training and a minimum 30 months employment with the Town of Aberdeen.

Taser w/ Exposure	4 Hours
Public Relations Training	32 Hours
Additional Approved Training	100 Hours
Completion of State Mandated In Service Training	

**Master Officer**

(30 to 42 Months) 5% Increase in salary after completion of Master Officer training and a minimum 42 months employment with the Town of Aberdeen. Master Officer will be eligible for promotion to Sergeant.

Field Training Officer	40 Hours
First Line Supervision	40 Hours
DCI Training	40 Hours
Additional Approved Training	40 Hours
Completion of State Mandated In Service Training	

**Sergeant Probationary Period**

(0 to 6 Months) 5% Increase and released from probationary status. Must have met Master Officer Training Requirements.

**First Year Sergeant**

(6 to 18 Months) 5% Increase in salary after completion of First Year Sergeant training and minimum 18 months as a Sergeant with the Town of Aberdeen.

Supervisory Training 40 Hours  
Media Relations For Law Enforcement 40 Hours  
Additional Approved Training 80 Hours  
Completion of State Mandated In Service Training

**Senior Sergeant**

(18 to 30 Months) 5% Increase in salary after completion of Senior Sergeant training and minimum 30 months as a Sergeant with the Town of Aberdeen. Senior Sergeant eligible for promotion to Lieutenant.

Supervisory / Management Training 80 Hours  
Additional Approved Training 80 Hours  
Completion of State Mandated In Service Training

**Probationary Patrol Lieutenant**

(0 to 6 Months) 5% Increase and released from probationary status. Must have met Senior Sergeant Training Requirements.

**First Year Patrol Lieutenant**

(6 to 18 Months) 5% Increase in salary after completion of First Year Patrol Lieutenant and 18 months as a Lieutenant with the Town of Aberdeen.

Additional Approved Management Training 120 Hours  
Background Investigation 32 Hours  
Completion of State Mandated In Service Training

**Senior Patrol Lieutenant**

(18 to 30 Months) 5% Increase in salary after completion of First Year Patrol Lieutenant training and minimum 30 months as a Lieutenant with the Town of Aberdeen. Senior Lieutenant eligible for promotion to Captain.

Additional Approved Management Training 120 Hours  
Completion of State Mandated In Service Training

**Probationary CID Lieutenant**

(0 to 6 Months) 5% Increase and released from probation. Must have met Senior Sergeant Training Requirements.

**First Year CID Lieutenant**

(6 to 18 Months) 5% Increase in salary after completion of First Year CID Lieutenant training and minimum 18 months as a Lieutenant with the Town of Aberdeen

Background Investigation 32 Hours  
Approved Management Training 60 Hours

Advanced Criminal Investigation 40 Hours  
Additional Approved Training 20 Hours  
Completion of State Mandated In Service Training

**Senior CID Lieutenant**

(18 to 30 Months) 5% Increase in salary after completion of First Year CID Lieutenant training and minimum 30 months as a Lieutenant with the Town of Aberdeen. Senior CID Lieutenant eligible for promotion to Captain.

Additional Approved Management Training 120 Hours  
Completion of State Mandated In Service Training

**Probationary Investigator**

(0 to 6 Months) 5% Increase and released from probationary status. Must have met Master Officer Training Requirements.

**First Year Investigator**

(6 to 18 Months) 5% Increase in salary after completion of First Year Investigator training and minimum 18 months as an Investigator with the Town of Aberdeen.

Background Investigation 32 Hours  
Approved Investigation Training 100 Hours  
Additional Approved Training 40 Hours  
Completion of State Mandated In Service Training

**Senior Investigator**

(18 to 30 Months) 5% Increase in salary after completion of Senior Investigator training and minimum 30 months as an Investigator with the Town of Aberdeen.

Approved Investigation Training 80 Hours  
Supervisory / Management Training 80 Hours  
Completion of State Mandated In Service Training

**Probationary Captain**

(0 to 6 Months) 5% Increase and released from probationary status. Must have met Senior Lieutenants Training Requirements.

**Captain**

(6 to 18 Months) 5% Increase in salary after completion of Captains training and minimum 18 months as a Captain with the Town of Aberdeen.

Management Development Training 200 Hours  
Completion of State Mandated In Service Training

### **Deputy Chief**

5% Increase in salary after completion of required training and minimum 18 months as a Deputy Chief with the Town of Aberdeen.

Management Development Training 200 Hours

Completion of State Mandated In Service Training

### **Chief of Police**

5% Increase in salary after completion of required training and minimum 18 months as Chief of Police with the Town of Aberdeen.

Management Development Training 200 Hours

Completion of State Mandated In Service Training

**Note: The Chief of Police based on education and past performance evaluations may grant waivers of minimum requirements.**

## **HIRING AND PROMOTIONAL GUIDELINES**

### **Lateral Transfers:**

Officers may be hired as a lateral transfer from another law enforcement agency and will be given credit for their education, training and experience. Because lateral transfers are given credit for educational degrees upon employment, the degree will not be considered in Career Development Advances. No officer will be hired at a level higher than Police Officer II.

### **Hiring From Outside The Agency:**

The department may go outside this agency to hire if no one within the department meets the training and experience requirements.

### **Promotions and Advancements:**

When being promoted or moved from one position to another within a rank, the employee must have received an above average rating on their last performance evaluation. No one will use the same performance evaluation to make two advancements within a year. There should not be any serious reprimands.

### **Promotion To The Rank Of Sergeant:**

The employee must have at least three and one half years experience as a full time law enforcement officer with at least eighteen months of experience with Aberdeen Police Department. Master Officer training requirements must be completed.

### **Promotion To The Rank Of Lieutenant:**

The employee must have at least five years experience as a full time law enforcement officer with the Aberdeen Police Department. Second Year Sergeant or Second Year Investigator training requirements must be completed.

**Promotion To The Rank Of Captain:**

The employee must have at least eight years experience as a full time law enforcement officer with the Aberdeen Police Department. Senior Patrol Lieutenant or Senior CID Lieutenant training requirements must be completed.

**A RESOLUTION TO AMEND THE TOWN OF ABERDEEN  
POLICE DEPARTMENT CAREER DEVELOPMENT PROGRAM**

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ABERDEEN THE FOLLOWING:

**Section 1.** The Town of Aberdeen Personnel Policy, Exhibit 16, "Aberdeen Police Department Career Development Program," is amended as attached.

**Section 2.** All provisions of any town ordinance or resolution in conflict with this resolution are repealed.

**Section 4.** This resolution shall become effective upon adoption.

The foregoing resolution, having been submitted to a vote, received the following vote and was duly adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Ayes: \_\_\_\_\_  
Noes: \_\_\_\_\_  
Absent or Excused: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert A. Farrell, Mayor

Attest:

\_\_\_\_\_  
Regina M. Rosy, Town Clerk

**Proposed Revision**  
**Effective 10/12/2015**

**Aberdeen Police Department**  
**Career Development Program**

- I. **Purpose:**  
The purpose of the standard operating guideline is to establish a policy for administering the Career Development Program within the Aberdeen Police Department.
  
- II. **Scope:**  
This standard operating guideline shall apply to all Police Department Personnel from the rank of Probationary Police Officer to Chief.
  
- III. **Discussion:**  
The career development plan is voluntary in nature and designed to:
  - a) Recognize and reward the professional employee for his/her training and job related achievements.
  - b) Maximize employee potential and promote growth and development within the Aberdeen Police Department.
  - c) Enhance the credibility of the Aberdeen Police Department by providing the highest level of professional service to the community.
  
- IV. **Procedure:**
  1. Each employee seeking to be promoted to the next level from Police Officer I to Master Patrol Officer after meeting the minimum requirements shall submit the career development application along with the training hour totals to the Police Chief or his designee.
  2. When a vacancy is available to Sergeant, Lieutenant, Captain Deputy Chief, the employee meeting the minimum requirements shall submit the following information.
    - a) A letter stating that they are interested in the position.
    - b) Applicant must be free of any disciplinary action for one year.
    - c) Completed Applicant Time in Service Form signed by the Training Coordinator (Attachment A)
    - d) Completed Training Hour Tally Sheet. (Attachment B).
  3. Once all applications have been received and verified that they meet the minimum requirements for Sergeant or above a promotion board and process will then be conducted.

**V. Rank Criteria:****Probationary Police Officer**

5% increase when released from probationary status.

**Police Officer 1**

5% increase in salary after completion of Police Officer 1 Training and at least 18 months Police Officer with the Town of Aberdeen.

- |                                 |          |
|---------------------------------|----------|
| • Radar Operators Training      | 40 Hours |
| • Intoxilyzer Operator Training | 40 Hours |
| • MDT Training                  | 8 Hours  |
| • Additional Approved Training  | 40 Hours |

**Police Officer II**

5% Increase in salary after completion of Police Officer II Training and at least 30 months as an Aberdeen Police Officer.

- |                                |           |
|--------------------------------|-----------|
| • Taser w/Exposure             | 4 Hours   |
| • Additional Approved Training | 120 Hours |

**Master Police Officer**

5% Increase in salary after completion of Master Officer Training and at least 36 months as a Police Officer with the Town of Aberdeen. Master Officer will be eligible for promotion to Probationary Sergeant/Probationary Investigator.

- |                          |          |
|--------------------------|----------|
| • Field Training Officer | 40 Hours |
| • First Line Supervision | 40 Hours |
| • DCI Training           | 40 Hours |

**Probationary Sergeant (5% increase at time of promotion)**

2.5% increase in salary after being released from 6-month Probationary Status.

**Sergeant 2<sup>nd</sup> Class**

2.5% increase in salary after completion of 120 hours of training in 2<sup>nd</sup> Class Sergeant and at least 18 months as a Sergeant with the Town of Aberdeen. The approved training covering the following areas:

- Entry Level leadership Development 100 (New Sergeants Course, Advanced First line Supervision).
- Team Building Techniques for new Supervisors.

**Sergeant 1<sup>st</sup> Class**

2.5% increase in salary after completion of 120 hours of training in 1<sup>st</sup> Class Sergeant and at least 30 Months as a Sergeant with the Town of Aberdeen. The approved training covering the following areas:

- Legal issues for managers
- Advanced Field Training
- Laws and Administration Training

**Probationary Patrol Lieutenant (5% increase at time of promotion)**

2.5% Increase when released from probationary status.

**Lieutenant 2<sup>nd</sup> Class**

2.5% Increase in salary after completion of 160 of training in Lieutenant 2<sup>nd</sup> Class and at least 18 months as a Lieutenant with the Town of Aberdeen. The approved training covering the following areas:

- Police Leadership Development 200
- Performance Evaluations
- Managing Patrol Techniques
- Liability Issues for Police Supervisors

**Lieutenant 1<sup>st</sup> Class**

2.5% Increase in salary after completion of 160 hours of training in Lieutenant 1<sup>st</sup> Class and at least 30 months as a Lieutenant with the Town of Aberdeen. The approved training covering the following areas:

- Police Leadership Development 300
- Media Relations
- Public Speaking
- Police Conflict Resolution
- Background Investigations

**Probationary Detective (5% increase at time of promotion)**

2.5% Increase when released from Probation.

**Detective 2<sup>nd</sup> Class**

2.5% increase in salary after completion of Approved Training and at least 18 months as a Detective with the Town of Aberdeen

Approved Training

120 Hours

**Detective 1<sup>st</sup> Class**

2.5% Increase in salary after completion of Approved Training and at least 30 months as a Detective with the Town of Aberdeen.

Approved Training

120 Hours

**Probationary Captain (5% increase at time of promotion)**

2.5% Increase in salary after being released from probation.

**Captain 2<sup>nd</sup> Class**

2.5% Increase in salary after completing 200 hours of training in Captain 2<sup>nd</sup> Class and at least 18 months as a Captain with the Town of Aberdeen. Approved Management training that has not been used in any prior promotion. The approved training covering the following areas:

- Organization Leadership
- Introduction to Basic Budgeting
- Strategic Planning and scheduling

**Captain 1<sup>st</sup> Class**

2.5% Increase after completing 100 hours of training in Captain 1<sup>st</sup> Class and at least 30 months as a Captain with the Town of Aberdeen. The approved training covering the following areas:

- Police Leadership Development 400
- Internal Affairs
- Special Events Management

**Deputy Chief (10% increase at time of promotion)**

2.5% Increase in salary after completion of 200 hours in Approved Management Training that has not been used for any prior promotion, and at least 30 months as a Deputy Chief in the Town of Aberdeen.

- Executive Police Leadership (FBI Academy, LEEP)
- Budgetary Techniques
- Associates Degree or Above or working towards a degree
  - Criminal Justice
  - Business Administration
- Basic Grant capabilities

**Chief of Police**

2.5% Increase in salary after completion of 200 hours in Approved Management Training that has not been used in any prior promotion and at least 30 months as Chief in the Town of Aberdeen.

- Executive Police Leadership (FBI Academy, LEEP)
- Budgetary Techniques
- Associates Degree or Above or working towards a degree
  - Criminal Justice
  - Business Administration
- Show proficiency in Excel

# Aberdeen Police Department Career Development Application

Applicant Name: \_\_\_\_\_  
(Print Name)

Rank Applying for: \_\_\_\_\_

Date started with Aberdeen: \_\_\_\_\_

Years of service at current rank: \_\_\_\_\_

Total time with Aberdeen Police Department: \_\_\_\_\_

Total time with other Agency(s): \_\_\_\_\_  
(Agency) (Time)

\_\_\_\_\_  
(Agency) (Time)

\_\_\_\_\_  
(Agency) (Time)

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Training Coordinator: \_\_\_\_\_ Date: \_\_\_\_\_

**Aberdeen Police Department**  
**Applicant Training Hour Totals**  
**Career Development**

**Applicant Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Rank Applying For:** \_\_\_\_\_

**List of Completed Training:**

(Class Title)	(Hours Completed)

**Total Hours Completed:** \_\_\_\_\_

_____ (Applicant Signature)	_____ (Date)
_____ (Training Coordinator Signature)	_____ (Date)



## TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** P Graham **Department:** Planning

**Contact Phone #** 4517 **Date Submitted:** 10/7/2015

**Agenda Item Title:** Discussion of Proposal for Changes to Townhome Component of Legacy Lakes Development

**Date of Board Meeting to hear this item:** 10/12/2015

**Board Action Requested:**

New Business	<input type="checkbox"/>	Information Only	<input type="checkbox"/>
Old Business	<input type="checkbox"/>	For Action at Future Meeting	<input type="checkbox"/> Date _____
Public Hearing	<input type="checkbox"/>	Informal Discussion & Public Comment	<input checked="" type="checkbox"/>
Other Business	<input type="checkbox"/>	Consent Agenda	<input type="checkbox"/>

**Summary of Information:**

Mr. Marcel Goneau has requested a discussion with the Board to present a proposal for development of the area in Legacy Lakes designated for townhomes.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**



## TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** P Graham **Department:** Planning

**Contact Phone #** 4517 **Date Submitted:** 10/2/15

**Agenda Item Title:** UDO Text Amendment 15-09 Regarding Permissible Uses

**Date of Board Meeting to hear this item:** 10/12/15

**Board Action Requested:**

New Business	<input checked="" type="checkbox"/>	Information Only	<input type="checkbox"/>
Old Business	<input type="checkbox"/>	For Action at Future Meeting	<input type="checkbox"/> Date _____
Public Hearing	<input type="checkbox"/>	Informal Discussion & Public Comment	<input type="checkbox"/>
Other Business	<input type="checkbox"/>	Consent Agenda	<input type="checkbox"/>

**Summary of Information:**

Public Hearing was held on 9/28/15 and the item is ready for a decision from the Board.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**



MEMORANDUM TO THE BOARD OF COMMISSIONERS – October 12, 2015 Work Session  
(New information is shown in bold type)

Description of Request

**Request:**

UDO Text  
Amendment #15-09  
Regarding  
Permissible Uses

The attached text amendment draft is being proposed to respond to case law. A **public hearing on the amendment was conducted on September 28, 2015, with a decision deferred until the October 12<sup>th</sup> Work Session.** A Memorandum provided by the Town Attorney's office states the following in regard to this proposed amendment:

**Prepared by:**

Pamela Graham,  
Planning Director

The North Carolina Court of Appeals in *Land v. Village of Wesley Chapel*, 206 N.C. App. 123, 131, 297 S.E.2d 458, 463 (2010) held that, "Zoning regulations are in derogation of common law rights and they cannot be construed to include or exclude by implication that which is not clearly their express terms. It has been held that well-founded doubts as to the meaning of obscure provisions of a Zoning Ordinance should be resolved in favor of the free use of property." (Quoting, *Yancey v. Heafner*, 268 N.C. 263, 266, 150 S.E.2d 440, 443 (1966)). Applying this rule, the *Land* Court struck down a provision very similar to the one contained in Aberdeen Unified Development Ordinance Section 152-149(B), which reads as follows: "[A]ll uses that are not listed in section 152-146 (the Table of Permissible Uses), even given the liberal interpretation mandated by subsection (A), are prohibited."<sup>1</sup> The proposed amendment eliminates this language and adopts a new standard that hopefully will be workable for the Town. While the Board of Commissioners does not have to adopt the amendment exactly as it is written, the Board should adopt some ordinance amendment to address *Land v. Village of Wesley Chapel*.

Procedural Issues

§152-322 of the Town of Aberdeen Unified Development Ordinance (UDO) requires that proposed amendments to the UDO shall be referred to the Planning Board for consideration and recommendation to the Town Board. The Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the town and any other officially

<sup>1</sup> As an interesting side note, the language struck down came from the model unified development ordinance developed by Mike Brough in 1985. The language had been widely adopted by smaller North Carolina municipalities because they generally lack the resources to attempt to regulate every conceivable land use.

adopted plan that is applicable and describe in what manner it is or is not consistent. A comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Board.

In addition to the plan consistency requirement, the Planning Board must include a statement in their recommendation regarding whether the proposal is reasonable and in the public interest, and in what manner it is or is not reasonable and in the public interest.

Following a recommendation to the Town Board for approval or denial of an application, the item will be scheduled for a public hearing where public input can be accepted by the Town Board in advance of a final decision. The central issue to be considered regarding amendments is whether the proposed amendment advances the public health, safety, or welfare. The statement included with the Town Board's decision on the amendment shall *describe whether the action is consistent with adopted plans and explaining why the Board considers the action taken to be reasonable and in the public interest*. The decision is legislative in nature as opposed to quasi-judicial, and is not subject to judicial review.

**Plan Consistency**

The 2030 Land Development Plan adopted in 2005 does not address the potential need for notifications of this type and staff has located no references to this matter in other plans adopted by the town. *The proposed text amendment is not inconsistent with plans adopted by the town in that the issue is not addressed in the plans.*

**Recommendations and Suggested Motions**

During their August 20, 2015 meeting, the Planning Board unanimously recommended approval of UDO #15-09. Staff recommends that the Board consider approval of the attached UDO amendment #15-09 and make the following motions:

- Motion 1:**       UDO #15-09 is not inconsistent with comprehensive plans that have been adopted by the Town of Aberdeen, or
- UDO #15-09 is inconsistent with comprehensive plans that have been adopted by the Town of Aberdeen.

Indicate the applicable plan and briefly how the amendment is or is not consistent:

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- Motion 2:**       UDO #15-09 is reasonable and in the public interest, or
- UDO #15-09 is not reasonable and in the public interest.

Briefly explain why the amendment is or is not reasonable and in the public interest:  
*(Factors may include public health and safety, character of the area and relationship*

*of uses, applicable plans, or balancing benefits and detriments)*

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**Motion 3:** The Town of Aberdeen Board of Commissioners (approves/denies) the following amendment to the Town of Aberdeen UDO:

- Amend UDO § 152-149 “Permissible Uses and Specific Exclusions” as indicated in the attached draft text amendment.

Enclosures: UDO #15-09 Text Amendment Draft

**AN ORDINANCE AMENDING THE ABERDEEN UNIFIED DEVELOPMENT ORDINANCE  
WITH REGARD TO PERMITTED USES (RED-LINE VERSION)**

WHEREAS, the North Carolina Court of Appeals in *Land v. Village of Wesley Chapel*, 206 N.C. App. 123, 131, 297 S.E.2d 458, 463 (2010) held that, "Zoning regulations are in derogation of common law rights and they cannot be construed to include or exclude by implication that which is not clearly their express terms. It has been held that well-founded doubts as to the meaning of obscure provisions of a Zoning Ordinance should be resolved in favor of the free use of property." (*Quoting, Yancey v. Heafner*, 268 N.C. 263, 266, 150 S.E.2d 440, 443 (1966)). Applying this rule the *Land* Court struck down a provision very similar to the one contained in Aberdeen Unified Development Ordinance Section 152-149(B);

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ABERDEEN THE FOLLOWING:

**Section 1.** Aberdeen Unified Development Ordinance Section 152-149, "Permissible Uses and Specific Exclusions," is amended as follows:

**§ 152-149. Permissible Uses and Specific Exclusions.**

(A) The presumption established by this ordinance is that all legitimate uses of land are permissible within at least one zoning district in the Town's planning jurisdiction. Therefore, because the list of permissible uses set forth in section 152-146 (the Table of Permissible Uses) cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

~~(B) — Notwithstanding subsection (A), all uses that are not listed in section 152-146 (the Table of Permissible Uses), even given the liberal interpretation mandated by subsection (A), are prohibited. Nor shall section 152-146 be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.~~

(B) Notwithstanding subsection (A), if the proposed use is not listed in section 152-146 (the Table of Permissible Uses), even given a liberal interpretation, the permit-issuing authority shall apply the minimum ordinance standards for the use found in the Table of Permissible uses that is most closely related to the land use impacts of the proposed use and issue the permit. The Land Use Administrator or the Planning Board may request that the Town Board initiate an ordinance amendment addressing such proposed use. If the adoption of such an amendment occurs after the Land Use Administrator receives an application for a zoning compliance permit, special use permit or conditional use permit, however, the ordinance standards in effect at the time the application is received shall apply.

(C) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

(1) Any use that involves the manufacture, handling, sale, distribution, or

storage of any highly combustible or explosive materials in violation of the Town's fire prevention code;

(2) Stockyards, slaughterhouses, abattoirs and rendering plants;

(3) The keeping of swine. This prohibition is adopted pursuant to authority granted by G.S. Chpt. 160A, Art. 19, Part 3 and G.S. 160A-186;

(4) Except as provided by this ordinance, salvage yards, junk yards and all other types of recycling facilities;

(5) Use of a recreational vehicle as a temporary or permanent residence. (Situations that do not comply with this subsection on the effective date of this ordinance are required to conform within one year of the effective date of this ordinance); and

(6) With the exception of roadside stands which are permitted subject to section 152-163.18, use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted. Situations that do not comply with this subsection on the effective date of this ordinance are required to conform within thirty (30) days.

**Section 2.** All provisions of any town ordinance or resolution in conflict with this ordinance are repealed.

**Section 3.** This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

Absent or Excused: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert A. Farrell, Mayor

Attest:

\_\_\_\_\_  
Regina M. Rosy, Town Clerk

**AN ORDINANCE AMENDING THE ABERDEEN UNIFIED DEVELOPMENT ORDINANCE  
WITH REGARD TO PERMITTED USES (CLEAN VERSION)**

WHEREAS, the North Carolina Court of Appeals in *Land v. Village of Wesley Chapel*, 206 N.C. App. 123, 131, 297 S.E.2d 458, 463 (2010) held that, “Zoning regulations are in derogation of common law rights and they cannot be construed to include or exclude by implication that which is not clearly their express terms. It has been held that well-founded doubts as to the meaning of obscure provisions of a Zoning Ordinance should be resolved in favor of the free use of property.” (*Quoting, Yancey v. Heafner*, 268 N.C. 263, 266, 150 S.E.2d 440, 443 (1966)). Applying this rule the *Land* Court struck down a provision very similar to the one contained in Aberdeen Unified Development Ordinance Section 152-149(B);

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ABERDEEN THE FOLLOWING:

**Section 1.** Aberdeen Unified Development Ordinance Section 152-149, “Permissible Uses and Specific Exclusions,” is amended as follows:

**§ 152-149. Permissible Uses and Specific Exclusions.**

(A) The presumption established by this ordinance is that all legitimate uses of land are permissible within at least one zoning district in the Town's planning jurisdiction. Therefore, because the list of permissible uses set forth in section 152-146 (the Table of Permissible Uses) cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

(B) Notwithstanding subsection (A), if the proposed use is not listed in section 152-146 (the Table of Permissible Uses), even given a liberal interpretation, the permit-issuing authority shall apply the minimum ordinance standards for the use found in the Table of Permissible uses that is most closely related to the land use impacts of the proposed use and issue the permit. The Land Use Administrator or the Planning Board may request that the Town Board initiate an ordinance amendment addressing such proposed use. If the adoption of such an amendment occurs after the Land Use Administrator receives an application for a zoning compliance permit, special use permit or conditional use permit, however, the ordinance standards in effect at the time the application is received shall apply.

(C) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

(1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the Town's fire prevention code;

(2) Stockyards, slaughterhouses, abattoirs and rendering plants;

(3) The keeping of swine. This prohibition is adopted pursuant to authority

granted by G.S. Chpt. 160A, Art. 19, Part 3 and G.S. 160A-186;

(4) Except as provided by this ordinance, salvage yards, junk yards and all other types of recycling facilities;

(5) Use of a recreational vehicle as a temporary or permanent residence. (Situations that do not comply with this subsection on the effective date of this ordinance are required to conform within one year of the effective date of this ordinance); and

(6) With the exception of roadside stands which are permitted subject to section 152-163.18, use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted. Situations that do not comply with this subsection on the effective date of this ordinance are required to conform within thirty (30) days.

**Section 2.** All provisions of any town ordinance or resolution in conflict with this ordinance are repealed.

**Section 3.** This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

Absent or Excused: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert A. Farrell, Mayor

Attest:

\_\_\_\_\_  
Regina M. Rosy, Town Clerk



## TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** P Graham **Department:** Planning

**Contact Phone #** 4517 **Date Submitted:** 10/2/15

**Agenda Item Title:** UDO Text Amendment 15-10 Regarding Special Exceptions

**Date of Board Meeting to hear this item:** 10/12/15

**Board Action Requested:**

New Business	<input checked="" type="checkbox"/>	Information Only	<input type="checkbox"/>
Old Business	<input type="checkbox"/>	For Action at Future Meeting	<input type="checkbox"/> Date <u>          </u>
Public Hearing	<input type="checkbox"/>	Informal Discussion & Public Comment	<input type="checkbox"/>
Other Business	<input type="checkbox"/>	Consent Agenda	<input type="checkbox"/>

**Summary of Information:**

Public Hearing was held on 9/28/15; the item is ready for a decision by the Board.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**



**MEMORANDUM TO THE BOARD OF COMMISSIONERS – October 12, 2015 Work Session**  
**(New information is shown in bold type)**

**Description and Background of Request**

**Request:**

UDO Text  
Amendment #15-10  
Regarding Special  
Exceptions

**Prepared by:**

Pamela Graham,  
Planning Director

Draft changes to §152-92.1 (Special Exceptions) are also being considered in light of a recent instance that staff has encountered. Staff brought the proposal to the Town Board for input during their June 8<sup>th</sup> Work Session, and was directed to prepare a draft amendment for a recommendation from the Planning Board. The Planning Board, during their August 20, 2015 meeting, recommended approval with modified language. **A public hearing was held on the item on September 28, 2015, with the decision deferred until the October 12<sup>th</sup> Work Session.** The events leading to the consideration of an amendment are as follows.

During a site inspection for a lot under construction located at 175 Devon Circle staff observed a pre-fab shed on the adjacent property that did not appear to meet the required ten foot side setback requirement. In following up on the shed it was discovered that no zoning permit had been pulled and staff began attempting contact with the property owners, Alan and Lindsey Colvin. Communication was difficult, as Mr. Colvin had been deployed to Afghanistan, but ultimately it was relayed to staff that the developer/home builder Murray Williamson had been contracted to install the shed and pour a concrete slab as a base and the homeowners had assumed it was handled per town requirements and code. Staff began an enforcement case on the matter, but delayed levying civil penalties as we attempted to work with the homeowners using a less stringent approach. We reached out to the town attorney to see if other options were available and the possibility of utilizing the “Special Exception” section of the UDO was discussed. Special Exceptions allow for special circumstances to be considered when setback requirements are not being met, however, the language applies to primary structure setback requirements and does not address accessory structures specifically. The UDO typically treats these two types of structures differently, only requiring a ten foot setback for accessory structures (other than garages) where the side setback for primary structures is typically fifteen feet.

Staff is proposing that the Town Board consider adding a new subsection (F) to the Special Exception language that specifically addresses accessory structures, which

would allow for setback reduction to as little as zero feet when the following requirements have been met:

1. That issuance of the permit will not create a threat to the public health or safety; and
2. That issuance of the permit will not adversely affect the value of adjoining or neighboring properties. Competent evidence of this must be demonstrated, with one method being that a petition signed by affected property owners be submitted stating that they do not believe their property values will be adversely affected by issuance of the permit.

### **Procedural Issues**

§152-322 of the Town of Aberdeen Unified Development Ordinance (UDO) requires that proposed amendments to the UDO shall be referred to the Planning Board for consideration and recommendation to the Town Board. The Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the town and any other officially adopted plan that is applicable and describe in what manner it is or is not consistent. A comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Board.

In addition to the plan consistency requirement, the Planning Board must include a statement in their recommendation regarding whether the proposal is reasonable and in the public interest, and in what manner it is or is not reasonable and in the public interest.

Following a recommendation to the Town Board for approval or denial of an application, the item will be scheduled for a public hearing where public input can be accepted by the Town Board in advance of a final decision. The central issue to be considered regarding amendments is whether the proposed amendment advances the public health, safety, or welfare. The statement included with the Town Board's decision on the amendment shall *describe whether the action is consistent with adopted plans and explaining why the Board considers the action taken to be reasonable and in the public interest*. The decision is legislative in nature as opposed to quasi-judicial, and is not subject to judicial review.

### **Plan Consistency**

The 2030 Land Development Plan adopted in 2005 does not address the potential need for notifications of this type and staff has located no references to this matter in other plans adopted by the town. *The proposed text amendment is not inconsistent with plans adopted by the town in that the issue is not addressed in the plans.*

### **Recommendations and Suggested Motions**

During their August 20, 2015 meeting, the Planning Board unanimously recommended approval of UDO #15-10, with amended language as indicated in **bold blue type** in the attached draft amendment (red type indicates changes proposed by staff for consideration, bold blue type indicates Planning Board recommended changes). Staff recommends that the Board consider approval of the attached UDO amendment #15-10 and make the following motions:

**Motion 1:**  UDO #15-10 is not inconsistent with comprehensive plans that have been adopted by the Town of Aberdeen, or

UDO #15-10 is inconsistent with comprehensive plans that have been adopted by the Town of Aberdeen.

Indicate the applicable plan and briefly how the amendment is or is not consistent:

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**Motion 2:**  UDO #15-10 is reasonable and in the public interest, or

UDO #15-10 is not reasonable and in the public interest.

Briefly explain why the amendment is or is not reasonable and in the public interest:  
*(Factors may include public health and safety, character of the area and relationship of uses, applicable plans, or balancing benefits and detriments)*

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**Motion 3:** The Town of Aberdeen Board of Commissioners (approves/denies) the following amendment to the Town of Aberdeen UDO:

- Amend UDO § 152-92.1 as indicated in the attached draft text amendment.

Enclosures: UDO #15-10 Text Amendment Draft  
Images of Accessory Structure on the Colvin's lot

**AN ORDINANCE AMENDING THE ABERDEEN UNIFIED DEVELOPMENT ORDINANCE  
WITH REGARD TO SPECIAL EXCEPTIONS (RED-LINE VERSION)**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ABERDEEN THE FOLLOWING:

**Section 1.** Aberdeen Unified Development Ordinance Section 152-94, "Special Exceptions," is amended as follows:

**§ 152-94. Special Exceptions.**

See also Appendix H.

(A) An application for a special exception permit shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator in the Planning Department.

(B) All of the provisions of this article applicable to the processing of variance applications shall also apply to special exception permit requests, except the provisions of subsections 152-92~~3(D)(C)~~ and 152-~~96~~108(B) and (C).

(C) The Board of Adjustment may issue a special exception permit for the purposes and under the circumstances set forth in either subsection (D), (E) or (F) of this section and the remaining subsections of this section if it concludes, in addition to any other findings required below, that:

- (1) Issuance of the permit will not create a threat to the public health or safety; and
- (2) Issuance of the permit will not adversely affect the value of adjoining or neighboring properties. If the applicant presents a petition, signed by the owners of all properties adjacent to the subject property entitled to receive notice of the hearing on the application pursuant to section 152-102(A)(2), and stating that such property owners believe their property values will not be adversely affected by the proposed use, this shall be sufficient evidence from which the board may (but shall not be required to) make the required finding. The board may also make the required finding based on other competent evidence.

(D) The Board of Adjustment may issue a special exception permit under this section to allow a reduction of up to fifty percent (50%) in the required distances that buildings must be set back from lot boundary lines under section 152-186, "Building Setback Requirements," provided that:

- (1) The reduction may be permitted only for buildings on lots used for conforming residential purposes in residential districts and where the building in question has existed for at least three (3) years prior to the application for the special exception permit;

- (2) In no case may the reduction allow a building to be located closer to a lot boundary line than a distance equal to one-half of the minimum building separation requirement established by the North Carolina State Building Code or allow the location of a building in such proximity to a pre-existing building as to violate the minimum building separation requirement of the North Carolina State Building Code; and
- (3) Reductions may be allowed under this section only for setbacks from lot boundary lines, not setbacks from street right-of-way lines.

(E) The Board of Adjustment may issue a special exception permit to authorize a structure to encroach upon a setback required under section 152-186, "Building Setback Requirements," if it finds that:

- (1) The proposed encroachment results from an addition to or an extension of an existing structure that already is nonconforming with respect to the requirements of section 152-186, "Building Setback Requirements"; and
- (2) The proposed addition or extension will not encroach upon any required front, rear, or side yard to a greater extent than the existing structure on that lot.

(F) Accessory Structures. Subsection 152-187(A) may be varied so that an accessory structure, other than a residential garage, may be located as little as zero no less than two (2) feet from any lot line, except street lot lines. The required setback for residential garages shall not be varied pursuant to this subsection, and the required setback from a street for any accessory structure shall not be varied pursuant to this subsection and that the property line in question be verified by a licensed surveyor or engineer.

**Section 2.** All provisions of any town ordinance or resolution in conflict with this ordinance are repealed.

**Section 3.** This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

Absent or Excused: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert A. Farrell, Mayor

Attest:

\_\_\_\_\_  
Regina M. Rosy, Town Clerk

**AN ORDINANCE AMENDING THE ABERDEEN UNIFIED DEVELOPMENT ORDINANCE  
WITH REGARD TO SPECIAL EXCEPTIONS (CLEAN VERSION)**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ABERDEEN THE FOLLOWING:

**Section 1.** Aberdeen Unified Development Ordinance Section 152-94, "Special Exceptions," is amended as follows:

**§ 152-94. Special Exceptions.**

See also Appendix H.

(A) An application for a special exception permit shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator in the Planning Department.

(B) All of the provisions of this article applicable to the processing of variance applications shall also apply to special exception permit requests, except the provisions of subsections 152-93(D) and 152-108(B) and (C).

(C) The Board of Adjustment may issue a special exception permit for the purposes and under the circumstances set forth in either subsection (D), (E) or (F) of this section if it concludes, in addition to any other findings required below, that:

- (1) Issuance of the permit will not create a threat to the public health or safety; and
- (2) Issuance of the permit will not adversely affect the value of adjoining or neighboring properties. If the applicant presents a petition, signed by the owners of all properties adjacent to the subject property, and stating that such property owners believe their property values will not be adversely affected by the proposed use, this shall be sufficient evidence from which the board may (but shall not be required to) make the required finding. The board may also make the required finding based on other competent evidence.

(D) The Board of Adjustment may issue a special exception permit under this section to allow a reduction of up to fifty percent (50%) in the required distances that buildings must be set back from lot boundary lines under section 152-186, "Building Setback Requirements," provided that:

- (1) The reduction may be permitted only for buildings on lots used for conforming residential purposes in residential districts and where the building in question has existed for at least three (3) years prior to the application for the special exception permit;
- (2) In no case may the reduction allow a building to be located closer to a lot boundary line than a distance equal to one-half of the minimum building

separation requirement established by the North Carolina State Building Code or allow the location of a building in such proximity to a pre-existing building as to violate the minimum building separation requirement of the North Carolina State Building Code; and

- (3) Reductions may be allowed under this section only for setbacks from lot boundary lines, not setbacks from street right-of-way lines.

(E) The Board of Adjustment may issue a special exception permit to authorize a structure to encroach upon a setback required under section 152-186, "Building Setback Requirements," if it finds that:

- (1) The proposed encroachment results from an addition to or an extension of an existing structure that already is nonconforming with respect to the requirements of section 152-186, "Building Setback Requirements"; and
- (2) The proposed addition or extension will not encroach upon any required front, rear, or side yard to a greater extent than the existing structure on that lot.

(F) Accessory Structures. Subsection 152-187(A) may be varied so that an accessory structure, other than a residential garage, may be located no less than two (2) feet from any lot line, except street lot lines. The required setback for residential garages shall not be varied pursuant to this subsection, and the required setback from a street for any accessory structure shall not be varied pursuant to this subsection and that the property line in question be verified by a licensed surveyor or engineer.

**Section 2.** All provisions of any town ordinance or resolution in conflict with this ordinance are repealed.

**Section 3.** This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

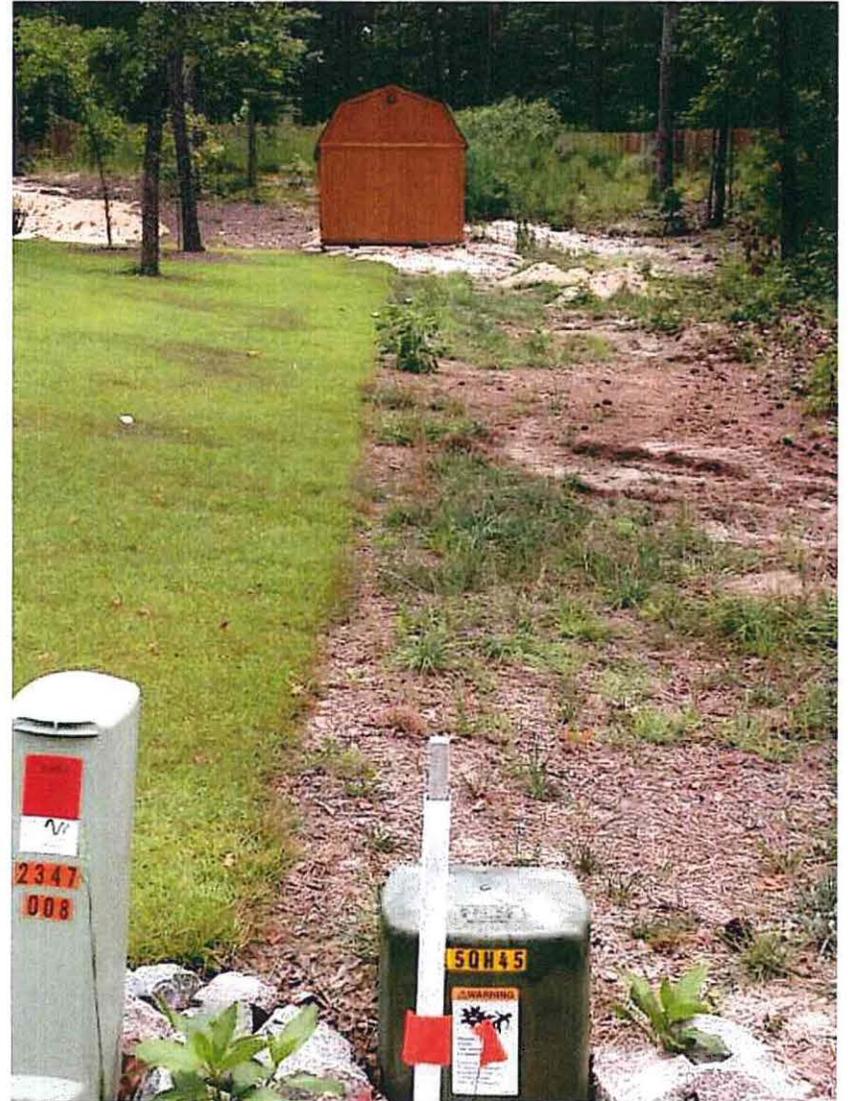
Absent or Excused: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert A. Farrell, Mayor

Attest:

\_\_\_\_\_  
Regina M. Rosy, Town Clerk





# TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** P Graham **Department:** Planning

**Contact Phone #** 4517 **Date Submitted:** 10/2/15

**Agenda Item Title:** UDO Text Amendment 15-04 Regarding Military Notification

**Date of Board Meeting to hear this item:** 10/12/15

<b>Board Action Requested:</b>	
New Business <input type="checkbox"/>	Information Only <input type="checkbox"/>
Old Business <input type="checkbox"/>	For Action at Future Meeting <input checked="" type="checkbox"/> Date <u>10/12/15</u>
Public Hearing <input type="checkbox"/>	Informal Discussion & Public Comment <input type="checkbox"/>
Other Business <input type="checkbox"/>	Consent Agenda <input type="checkbox"/>

**Summary of Information:**  
Schedule item for Public Hearing on 10/26/15.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**



# TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** P Graham **Department:** Planning

**Contact Phone #** 4517 **Date Submitted:** 10/2/15

**Agenda Item Title:** UDO Text Amendment 15-08 Regarding the Definition for Hotels

**Date of Board Meeting to hear this item:** 10/12/15

<b>Board Action Requested:</b>	
New Business <input type="checkbox"/>	Information Only <input type="checkbox"/>
Old Business <input type="checkbox"/>	For Action at Future Meeting <input checked="" type="checkbox"/> Date <u>10/12/15</u>
Public Hearing <input type="checkbox"/>	Informal Discussion & Public Comment <input type="checkbox"/>
Other Business <input type="checkbox"/>	Consent Agenda <input type="checkbox"/>

**Summary of Information:**  
Schedule item for Public Hearing on 10/26/15.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**



## TOWN OF ABERDEEN AGENDA ITEM ACTION REQUEST FORM

**This form must be completed and attached to all supporting documentation for items to be included on the Town of Aberdeen Board agenda. One (1) form per agenda item.**

**Submitted By:** P Graham **Department:** Planning

**Contact Phone #** 4517 **Date Submitted:** 10/2/15

**Agenda Item Title:** UDO Text Amendment 15-13 Regarding Building Design

**Date of Board Meeting to hear this item:** 10/12/15

**Board Action Requested:**

New Business	<input type="checkbox"/>	Information Only	<input type="checkbox"/>
Old Business	<input type="checkbox"/>	For Action at Future Meeting	<input checked="" type="checkbox"/> Date <u>10/12/15</u>
Public Hearing	<input type="checkbox"/>	Informal Discussion & Public Comment	<input type="checkbox"/>
Other Business	<input type="checkbox"/>	Consent Agenda	<input type="checkbox"/>

**Summary of Information:**

Schedule item for Public Hearing on 10/26/15.

**Special requests (i.e. Needs to be first on the agenda due to schedule of guest, etc.):**