



*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

September 12, 2016  
Monday, 6:00 p.m.

Robert N. Page Municipal Building  
Aberdeen, North Carolina

1. Revisions to Local Agreement with Reliance Packaging, LLC. **Information Only**
2. Consent Agenda

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held except on request by a member of the Board of Commissioners.

- a. Conditional Use Permit CU #16-05 for The Academy of Moore. **Public Hearing scheduled for 9/26/16**
  - b. Conditional Zoning Request #16-05 to Allow an Adult Day Care Facility at 316 Fields Drive. **Public Hearing scheduled for 9/26/16**
  - c. Continued Public Hearing for CU #16-04 Submitted by George Nelson for Property Located on Lighthouse Circle. **Continued Public Hearing scheduled for 9/26/16**
  - d. Revisions to Local Agreement with Reliance Packaging, LLC.
3. Appointment and Re-Appointment to Planning Board. **Consider Action at Work Session**
  4. Minor Modification to CU #05-04 Submitted by McKee Homes for Lot Line Changes on Lots 107-112. **Consider Action at Work Session**

5. Request to Permit Metal Siding on Proposed Industrial Building at 301 Fields Drive.  
Consider Action at Work Session
6. Other Business.
7. Closed Session pursuant to N.C. General Statute 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body.
8. 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.

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## 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 #** 910.944.4506 **Date Submitted:** 9/7/16

**Agenda Item Title:** Revisions to Local Agreement with Reliance Packaging, LLC

**Work Session - Board Action (date of meeting should be filled in on line) :**

**Information Only** 9/12/16

**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:**

Pat Corso will be going over the revisions to the Local Agreement with Reliance Packaging, LLC as part of the match for the One NC Fund grant program.

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

STATE OF NORTH CAROLINA  
COUNTY OF MOORE  
TOWN OF ABERDEEN

AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20165 (the "Agreement"), by and between RELIANCE PACKAGING LLC (the "Company"), a ~~North Carolina~~Florida limited liability company doing business at 155 Anderson Street in Aberdeen, North Carolina, ALPHA INDUSTRIES, INC. a new Jersey Corporation, (the "Guarantor"), and The TOWN OF ABERDEEN, a municipal corporation in the County of Moore in the State of North Carolina (the "Town").

WITNESSETH

WHEREAS, the Town has a public purpose of promoting economic development; and

WHEREAS, the Town finds that in order to stimulate the local economy and promote business, it is necessary and desirable to aid in the location and expansion of new industries within the Town; and

WHEREAS, the Town finds that the location of the Company in the Town will increase the Town's tax base and result in a substantial number of new jobs in the Town that pay at or above Moore County's average wage; and

WHEREAS, the Town applied for a One North Carolina Fund Grant from the State of North Carolina in the amount of \$52,000.00 to support the Company's location in the Town and was awarded said grant on April 6, 2015; and

WHEREAS, the One North Carolina Fund Grant requires a local government match to the funds allocated by the State; and

WHEREAS, pursuant to North Carolina General Statutes §§ 160A-20.1, 158-7.1 and 158-7.2, the Town desires to enter into an agreement with the Company for the Company's creation of new jobs and capital investment in the Town; and

WHEREAS, this Agreement shall specify the terms and conditions by which the Town agrees to provide a portion of the matching funds required by the One North Carolina Grant.

~~WHEREAS, the Town finds that in order to stimulate the local economy and promote business, it is necessary and desirable to aid in the location and expansion of new industries within the Town; and~~

~~WHEREAS, the Town finds that the location of the Company in the Town will increase the Town's tax base and result in a substantial number of new jobs in the Town that pay at or above Moore County's average wage; and~~

~~WHEREAS, pursuant to North Carolina General Statutes §§ 160A-20.1, 158-7.1 and 158-7.2, the Town desires to enter into an agreement with the Company for the Company's creation of new jobs and capital investment in the Town; and~~

WHEREAS, the Town finds that the consideration the Town will receive, based on the Company expanding within the Town and the prospective increase in tax revenues and income coming to the Town over the next five (5) years, will be equal to or greater than the appropriation from the Town; and

WHEREAS, the Company expects to employ a minimum of forty-three (43) ~~eight (48)~~ new full-time workers and invest in real and personal property having a tax value of at least \$3.15 million over the next five (5) years at the Facility; and

WHEREAS, the Guarantor has agreed to guarantee the performance and obligations of the Company hereunder, and its guaranty is made for the benefit of the Town and to induce the Town to enter into this Agreement, in consideration of the benefits provided to the Company and to the Guarantor.

### TERMS

NOW, THEREFORE, for valuable consideration and mutual covenants exchanged between the parties hereto, it is agreed as follows:

1. Commitments:

A. 1. Provided that the Company meets the performance thresholds in the One NC Fund Company Performance Agreement (the "CPA") by April 6, 2018, the Town agrees to pay the Company one or more an incentive grant[s] (the "Grants") of up to the total amount of \$24,997.00 in return for the Company's capital investment of 3.15 million dollars (\$3,51050,000.00) and the creation of a minimum of ~~forty-eight (48)~~ forty-three (43) new full-time jobs that provide benefits and have an average weekly wage of \$610.00 per week ~~wage that meets or exceeds Moore County's average wage standard, as determined annually by the North Carolina Department of Commerce, at the Facility. Grants shall be paid over a five-year period commencing from the date of the first grant payment made by the Town, provided that no grants shall be paid after this Agreement has terminated as set forth in paragraph 7.~~

B. a) Full-time employment is a person working at least 35 hours a week, whose wages are subject to withholding and who is employed in a permanent position. Part-time, Full-Time Equivalent (FTE) positions, or contract and consulting jobs are not eligible.

C. b) Employee benefits means the Company will provide a minimum of at least 50% employer-paid health insurance for all full-time positions.

2. ~~2.~~ Grant Disbursement:

A. Grant payments from the Town to the Company shall be based on (i) the capital investment level by the Company as determined by the appraised tax value of property each year and (ii) the creation of new jobs, as well as (iii) the Town's applicable ad valorem tax rate each year. The payments, the total of which shall not be greater than \$24,997.00. ~~The Company may elect the initial year in which the Grants identified in this Paragraph are paid provided that the initial grant year shall commence no later than twelve (12) months after the qualifying equipment or construction has been completed or the equipment is fully operational and the new employees are hired and working full-time.~~ The Company shall so notify the Town writing and provide the information required in paragraph 4 below.

B. If the Company makes the investments according to the schedule attached as Exhibit A as a guideline, then the Grant payments shall be:

~~Year 1:a)~~ A Grant equal to ninety percent (90%) of the ~~increase in~~ ad valorem Town taxes ~~from 2013 to 2014~~ fully paid by the Company in that year.

~~Year 2:b)~~ A Grant equal to eighty percent (80%) of the ~~increase in~~ ad valorem Town taxes ~~from 2013 to 2015~~ fully paid by the Company in that year.

~~Year 3:c)~~ A Grant equal to seventy-five percent (75%) of the ~~increase in~~ ad valorem Town taxes ~~from 2013 to 2016~~ fully paid by the Company in that year.

~~Year 4:d)~~ A Grant equal to seventy-five percent (75%) of the ~~increase in~~ ad valorem Town taxes ~~from 2013 to 2017~~ fully paid by the Company in that year.

~~Year 5:e)~~ A Grant equal to sixty percent (60%) of the ~~increase in~~ ad valorem Town taxes fully paid by the Company in that year.

C. The first Grant payment (i.e. "Year 1") shall be made after the first disbursement made pursuant to the CPA, specifically CPA paragraph 2.1. Thereafter, the Town shall make four more yearly Grant payments in accordance with the schedule set forth herein.

D. If the Company makes the investments according to the schedule attached as Exhibit A as a guideline, the Town shall make Grant payments totaling \$24,997.00. If after the Year 5 Grant has been made, any money remains due and owing to the Company, the Town shall promptly make a sixth and final Grant payment for the remainder of the amount due. In the Town's discretion, the sixth Grant payment may be combined with the Year 5 Grant payment for a single final payment.

3. Maintenance Period: The Company agrees to maintain operations at the Facility for at least 150% of the term of the tax grant, estimated to be seven years and six months. If the Company fails to remain in the Facility for the required term, the claw-back provision as outlined in this Paragraph below will recapture all or part of the grant funds. If Company fails to fulfill any of its obligations under this Agreement, then in that event, the Town may hold the Company in default and, in addition to any and all other remedies the Town may have at law or in equity, may do any or all of the following: (a) terminate this Agreement and make no further payments to Company; (b) recover any and all payments made to the Company; and (c) recover all expenses incurred by the Town due to the default including reasonable attorney's fees. If Company is not current on all taxes, fees, assessments or other amounts owed to the City by Company related to the Project at the time an ~~EDI~~ Grant is to be paid, the City may set off from any ~~EDI~~ Grant any amount(s) so owed by Company to City; and (d) the City is not required to make any ~~EDI~~ Grants to Company at any time after any public announcement by Company of its plan to cease utilization and/or marketing the Facility; and (e) the provisions of this Section III survive the termination of this Agreement.

4.

4. Documentation and Procedure:

A. ~~Prior to receiving the first Grant payment, the After Company has completed the annual expansion and hiring,~~ Company must submit the following documentation the Town's Finance Director to begin the Grants:

~~i.~~

~~ii.~~ Moore County Tax Assessor's listing of tax value for the property; and

~~i.~~

~~iii.~~ ~~Aa~~ written request for incentive payment designating the year for which incentives are requested; and

~~ii.~~

~~iv.~~ ~~P~~proof of payment of taxes due to the Town of ~~Aberdeen~~ ~~Conecord~~ for each year for which incentives are requested; ~~and~~

~~iii.~~

B. ~~Employment targets will be verified through the information supplied by the Company to the NC Department of Commerce, Division of Employment Security; Company will supply a copy of each quarterly month's~~ NCUI101 form to the Town with the annual request for payment

C. ~~The ; and~~

Company must make a separate request for each of the five contemplated Grant payments and shall update the required documentation annually for each year in which incentives are requested.

D.

Company shall promptly provide any and all such additional information evidencing compliance with this Agreement as the Town may request.

E.; and

~~EDI~~ Grant requests shall be based on one Tax Year only, and ~~EDI~~ Grant payments shall not be processed or paid more than once per fiscal year. In the event more than one payment is requested in a fiscal year, the first payment request received shall be processed and paid and the subsequent request shall be processed and paid in the following fiscal year.; and

F. Both parties agree that calculation of the incentives is based solely on the valuation of the Company's property by the Moore County Tax Assessor. The real property valuations made by the County Tax Assessor are deemed by both parties to be the conclusive and final determination of the investments made by the Company; provided, that the Company does not waive any rights it may have to dispute any assessment.

G.; and

If the Assessed Value of the Project (or any part of it) is disputed by the Company, its agents, employees or lawyers, and as a result of such dispute, the Company withholds any part of payment of its *ad valorem* taxes to the Town, then the Town shall make the Grant payment as calculated only on the undisputed amount of the Assessed Value and increased number of jobs. Should the value be determined by a tribunal of proper jurisdiction or otherwise resolved, and the Company gives written notice to the Town that the dispute of valuation is resolved within the Payment Term, then the Town will make the payment on the amount so resolved upon the request of the Company and such documentation of the resolution as the Town may require. The Company shall notify the Town in writing of any appeal it makes to the Moore County Board of Equalization and Review and/or the N.C. Property Tax Commission. Failure to notify the Town of any appeals is a default under this Agreement.

H.; and

In no case shall the Town make any Grant payment(s) for any year and any subsequent year during which the Company ceases to operate in the Town.

I.; and

H.I. -If Company is not current on all taxes, fees, assessments or other amounts owed to the Town by Company related to the Project at the time an EDI Grant is to be paid, the Town may set off from any ~~EDI~~ Grant any amount(s) so owed by Company to Town.

5. Indemnification and Limitations: The -Company will indemnify and hold harmless the Town, and its officers and employees (the "Indemnified Parties"), for damages imposed upon them by a court of final determination based on any claims of third parties arising out of any act or omission of the Company in the performance required of it by this Agreement, provided, however, that such indemnification shall not apply to third party claims arising out of or relating to an intentional or negligent act or omission of the Town. The Town agrees that none of the

foregoing shall be construed to release the Town from the obligations it has undertaken elsewhere in this Agreement, in connection with the Grants or otherwise. Except as otherwise set forth herein, each Indemnified Party and the Company agrees to pay its own costs incurred in connection herewith, including all costs incurred in connection with the preparation of this Agreement.

**THE COMPANY SHALL NOT BE LIABLE TO THE TOWN UNDER ANY CIRCUMSTANCES FOR ANY CLAIMS ARISING OUT OF ANY ACT OR OMISSION OF THE COMPANY IN THE PERFORMANCE REQUIRED OF IT BY THIS AGREEMENT FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST REVENUES AND PROFITS, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.**

6.- Disclaimer of Warranties:

A. -The Company acknowledges that the Town has not designed the Facility, that the Town has not supplied any plans or specifications with respect thereto and that the Town: (a) is not a manufacturer of, or dealer in, any of the component parts of the Facility or similar Facility, (b) has not made any recommendation, given any advice nor taken any other action with respect to (i) the choice of any supplier, vendor or designer of, or any other contractor with respect to the Facility or any component part thereof or any property or rights relating thereto or (ii) any action taken or to be taken with respect to the Facility or any component part thereof or any property or rights relating thereto at any stage of the construction thereof, (c) has not at any time had physical possession of the Facility or any component part thereof, and (d) has not made any warranty or other representation, express or implied, that the Facility or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the results which Company intends therefor, or (iii) is safe in any manner or respect.

B. The Town makes no express or implied warranty or representation of any kind whatsoever with respect to the Facility or any component part thereof, including but not limited to any warranty or representation with respect to the merchantability or the fitness or suitability thereof for any particular purpose, and further including the design or condition thereof, the safety, workmanship, quality, or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Facility's ability to perform any function; or any other characteristic of the Facility; it being agreed that as between the Town and Company, Company is to bear all risks relating to the Facility, the completion thereof or the transactions contemplated hereby and Company hereby waives the benefits of any and all implied warranties and representation of the Town.

C. The provision of this paragraph 6 shall survive the Agreement's termination.

7.- Termination of Agreement: This Agreement shall terminate after the Town has made the last of the Grant payments required by this Agreement, or in no case later than ten years from the Agreement Date. After such termination, this Agreement will be null and void, and the parties to this Agreement will have no further obligations from one to the other thereafter, except as specifically noted in this Agreement.

8.        -*Assignments*: The Company shall not assign this Agreement or any portion thereof without the written consent of the Town which will not be unreasonably withheld, nor shall the Company assign any funds due or to become due to it hereunder without the prior written consent of the Town; provided, however, the Company shall be permitted without obtaining the Town's consent to assign this Agreement or any portion thereof, or any funds due or to become due to it hereunder, to any direct or indirect wholly-owned subsidiary or other related party of the Company or to any company that is the successor by merger, asset purchase or otherwise to all or substantially all of its business, or to any person or entity that acquires the Project (and any such party shall assume all obligations of the Company under this Agreement), provided that Town Accountant is notified in writing of such assignment within thirty days. However, in the event of such assignment, the Company will still remain ultimately responsible and liable for the performance of the Company's obligations hereunder.

9.        -*Representations*:

A.       -The Company represents as of the date of this Agreement as follows:

i.—i. The Company (a†) is a North Carolina Florida-limited liability company duly organized and validly existing under the laws of its state of organization; (b††) is duly qualified to transact business and is in good standing in North Carolina; (c†††) is not in violation of any provision of its organizational documents; (d††††) has full power to own its properties and conduct its business; (e††) has full power and authority to enter into this Agreement and to enter into and carry out the transactions contemplated by this Agreement; (f†††) by proper action has duly authorized the execution and delivery of this Agreement; and (g††††) is not in default under any provision of this Agreement.

ii. The Company's execution and delivery of this Agreement neither conflicts with, nor will result in, a breach or default under its organizational documents; nor, to the best of its knowledge, will its execution and delivery conflict with, or result in, a breach or default under the terms, conditions, or provisions of any statute, order, rule, regulation, agreement, or instrument to which the Company is a party or by which it is bound; nor will its execution and delivery result in the imposition of any lien on its property.

iii. The Company has duly authorized, executed, and delivered this Agreement, and to the Company's knowledge, this Agreement constitutes its legal, valid, and binding obligations, enforceable in accordance with its terms.

iv. To the Company's knowledge, there is no litigation or proceeding pending or, to its knowledge, threatened against the Company, which would adversely affect the validity of this Agreement.

B. The Town represents as of the date of this Agreement as follows:

- i. To the best of the Town's knowledge at the time of execution of this Agreement, no officer or official of the Town has any interest (financial, employment, or other) in the Company or the transactions contemplated by this Agreement.
- ii. With respect to this Agreement, Town has complied fully with all requirements of N.C. General Statute 158-7.1, with the Town's ability and knowledge.
- iii. The Town shall make every effort to include the amounts of the grant payments in the Town's annual budget ordinance.

C. **NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE TOWN WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS DELEGATING GOVERNMENTAL POWERS NOR AS A DONATION OR A LENDING OF THE CREDIT OF THE TOWN WITHIN THE MEANING OF THE STATE CONSTITUTION. THIS AGREEMENT SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLGATE THE TOWN TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE TOWN FOR ANY FISCAL YEAR IN WHICH THIS AGREEMENT SHALL BE IN FORCE. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED TO PLEDGE OR TO CREATE A LIEN ON ANY CLASS OR SOURCE OF THE TOWN'S MONEYS, NOR SHALL ANY PROVISION OF THE AGREEMENT RESTRICT TO ANY EXTENT PROHIBITED BY LAW, ANY ACTION OR RIGHT OF ACTION ON THE PART OF ANY FUTURE TOWN GOVERNING BODY. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS ARTICLE AND ANY OTHER PROVISION OF THIS AGREEMENT, THIS ARTICLE TAKES PRIORITY.**

10. —Guaranty:

A. ~~10.1~~—The Guarantor represents and warrants, as of the date hereof, and as of the date of any disbursement of grant funds, that ~~(ia)~~ both the Company and Guarantor are duly organized, validly existing and in good standing under the laws of the States ~~North Carolina Florida~~ and New Jersey, respectively, with power adequate for carrying out their businesses; ~~(iib)~~ the execution, performance and delivery of this Agreement are within the Company's and Guarantor's power and authority and the Company and Guarantor have duly authorized, executed and delivered this Agreement; and ~~(iiie)~~ this Agreement is signed by an authorized representative of each of the Company and Guarantor, and is a legally and validly binding obligation of the Company and Guarantor, enforceable against them according to its terms, except as may be limited by bankruptcy, insolvency, or similar laws affecting creditors' rights; and ~~(ived)~~ it has taken or will take all actions reasonably necessary to carry out and give effect to the transactions contemplated by this Agreement; and ~~(ve)~~ all written statements, representations, and warranties made

by or on behalf of Company to the Town in connection with this Agreement and Grants are true, accurate and complete in all material respects, to its best knowledge and belief, and the Company is eligible for these Grants; and (vi~~f~~) the Company and Guarantor are financially solvent and not subject to any bankruptcy proceedings; and have no interest, and shall not acquire any interest, direct or indirect, which would conflict with the performance of their obligations under this Agreement; and (vii~~g~~) the making and performing of this Guaranty will not violate any provision of or result in the acceleration of any obligation under any instrument of agreement, order, judgement or decree to which the Guarantor is a party or by which it or any of its property is bound. There are no conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived.

10.2 ~~B.~~ In order to induce the Town to enter this Agreement, and the Town to enter the Local Government Grant Agreement The One North Carolina Fund, Grant No. 2014-16038 (the "LGGA"), and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Guarantor unconditionally and irrevocably guarantees, as primary obligor and not as surety, the full, prompt, and punctual performance by the Company of all of the Company's obligations, agreements and covenants under and with respect to this Agreement. The Guarantor unconditionally guarantees, the prompt payment (and not merely the collection) of all amounts that may now or in the future be owing to the N.C. Department of Commerce, or the State, or the Town under this Agreement and the LGGA, or any extension or renewal thereof however and whenever made, and shall be liable for any remedies or recoveries (including the cost of attorney fees incurred in enforcing this Agreement and the LGGA) available to the Town under or with respect to this Agreement. The liability of the Guarantor shall be primary, joint and several.

C. ~~10.3~~—This Guaranty shall operate as a continuing and absolute guaranty and shall remain in full force and effect without regard to, and shall not be affected or impaired by, any amendment of the Agreement, any sale or transfer of all or any part of the Guarantor's ownership interest in the Company, any voluntary or involuntary liquidation, dissolution, merger, sale of assets, insolvency, reorganization, bankruptcy or filing for bankruptcy of the Company or the Guarantor or any subsidiary, any ~~reissuance~~ rescission of a payment made hereunder, or any extension of time or other forbearance, compromise, adjustment, modification or indulgence granted to the Company by Town. The Guaranty shall remain in full force and effect until termination of the Agreement; provided, however, that the Guarantor shall not be released from its obligation hereunder so long as there is any claim of the Town against the Company, which claim arises out of, or related to, directly, or indirectly, this Agreement, that is not settled or discharged in full.

D. ~~10.4~~—The Town may exercise its rights against the Guarantor without first having to take action or exhaust remedies against the Company. The Guarantor expressly waives notice of non-performance, in any respect, by Company of any of its duties and obligations. The Guarantor unconditionally waives any defense available to it, including all suretyship defenses or defenses in the nature thereof; all requirements of notice, demand, presentment or protest in case of any default by the Company, as well as rights of set-off, redemption, and counterclaim which may be alleged to exist in favor of the Company.

E.10.5 This Guaranty shall inure to the benefit of the Town and its respective successor and assigns, and shall be binding on the Guarantor, and its successors and assigns, and shall not be discharged or affected by the death of any party.

11.       —*Miscellaneous:*

A. **Definitions.** All terms used in this Agreement and not otherwise defined will have their commonly accepted dictionary meanings.

B. **Governing Law.** The parties intend that the law of the State of North Carolina will govern this Agreement.

C. **Notices.**

- i. Any communication required or permitted by this Agreement must be in writing except as expressly provided otherwise in this Agreement.
- ii. Any communication under this Agreement shall be sufficiently given and deemed given when delivered electronically, by hand, by private delivery service or by US Postal Service, first-class certified mail, postage prepaid, and addressed as follows:

Satish Sharma  
Reliance Packaging LLC  
155 Anderson Street  
Aberdeen, NC 28315  
ssharma@reliancepkg.com

If to the Guarantor: Andrew Teo  
C/O Flexsol Packaging  
1531 NW 12<sup>th</sup> Ave.  
Pompano Beach, FL 33069  
andrew.teo@sigmaplastics.com

If to the Town: \_\_\_\_\_Town Manager  
Town of Aberdeen  
115 N. Poplar St.  
Aberdeen, NC, 28315  
  
P. O. Box 785  
Aberdeen, NC 28315  
  
bzell@townofaberdeen.net

With a required copy to: -T.C. Morphis, Jr., Town Attorney

The Brough Law Firm  
1829 E. Franklin Street, Suite 800A  
Chapel Hill, NC 27514

morphis@broughlawfirm.com

\_\_\_\_ Requests for ~~EDI~~ Grants payments to: \_\_\_\_ Beth Wentland, Finance  
Director

Town of Aberdeen  
115 N. Poplar St.  
Aberdeen, NC, 28315

P. O. Box 785  
Aberdeen, NC 28315

Bwentland@townofaberdeen.net

Any addressee may designate additional or different addresses for communications by notice given under this Section to each other.

**D. Non-Business Days.** If the date for making any payment or performing any act or exercising any right is not a Business Day, such payment must be made or act performed or right exercised on or before the next Business Day. A Business Day shall be any day Monday through Friday excluding any day which is a legal holiday and the United States Post Office is closed for transactions.

**D.E. Entire Agreement: Amendments.** This Agreement, including any Exhibits attached, which is incorporated herein and made a part hereof constitute the entire contract between the parties. This Agreement may not be changed except in writing signed by all parties. **THIS AGREEMENT SUPERSEDES THE AGREEMENT EXECUTED BY THE PARTIES ON JUNE 24, 2015.**

**E.F. Binding Effect.** This Agreement is binding upon, inures to the benefit of and is enforceable by the parties and their respective successors and assigns. There are no other agreements or other conditions precedent to the binding nature of the respective obligations of the Town under Paragraphs 1 4, other than the performance by Company of its obligations under this Agreement.

**E.G. Time.** Time is of the essence in this Agreement and each and all of its provisions.

**E.H. Liability of Officers and Agents.** No officer, agent, or employee of the Town or Company shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official

capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent, or employee from the performance of any official duty provided by law.

H.I. Counterparts. This Agreement may be executed in several counterparts, including separate counterparts. Each shall be an original, but all of them together constitute the same instrument.

H.J. Provide W-9 To Town. Company shall provide a completed W-9 form to the Town upon execution of this Agreement.

H.K. Dissolution of Company. If the Company's legal entity is dissolved or suspended and the Company does not notify the Town of such dissolution in ten calendar days and/or the entity status is not reinstated in thirty business days, this Agreement, at the sole option of the Town, shall be declared null and void or the Company shall execute a new Agreement showing the Company's correct legal entity.

K.L. Notice of Potential Disclosure of Confidential Company Information. The Company acknowledges that it has been informed by the Town that the Town is required by North Carolina law to disclose "Public Records" as the term is defined by North Carolina General Statutes § 132-1, upon request. All information disclosed to the Town by the Company which is subject to that definition and whose disclosure is not otherwise protected by law will be released by the Town upon request as provided by North Carolina General Statutes § 132-6. The Town may withhold from disclosure confidential records as defined by North Carolina General Statutes § 132-1.2. The Company acknowledges that it has read and is familiar with the Town's obligations of public disclosure of documents and the definitions of confidential documents as contained in Chapter 132 of the North Carolina General Statutes. In order to prevent the disclosure of the confidentiality of information identified by the Company as a trade secret or as "confidential" pursuant to North Carolina General Statute § 132.1.2 the Town shall, if it receives a request for disclosure of such information, notify the Company of such request so that the Company may defend any claims or disputes arising from efforts of others to cause such trade secrets to be disclosed as a public record. The Company acknowledges that this disclosure of the Town's public records requirements is given pursuant to North Carolina General Statutes § 132-1.8(b) and agrees that such disclosure is full and sufficient to the satisfaction of the Company. Both parties agree that this Section will survive the termination of the Agreement.

L.M. Force Majeure. Any delay in the performance of any of the duties or obligations of either party hereunder (the "Delayed Party") shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of any acts of God; acts of the public enemy; insurrections; riots; embargoes; labor disputes, including strikes, lockouts, job actions, or boycotts; shortages of materials or energy; fires; explosions; floods; changes in laws governing international trade; or other unforeseeable causes beyond the control and without the fault or negligence of the Delayed Party. The Delayed Party shall give prompt notice to the other party of such cause, and shall take whatever reasonable steps are necessary to relieve the effect of such cause as promptly as possible. No such event shall excuse the payment

of any sums due and payable hereunder on the due date thereof except any payment due upon the occurrence of any act or event for which delayed performance is excused as provided above.

M.N. Severability. If any court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, then (a) such holding shall not invalidate or render unenforceable any other provision of this Agreement, unless such provision is contingent on the invalidated provision; and (b) the remaining terms hereof shall, in such event, constitute the parties' entire agreement.

N.O. Audit Right. The Town reserves the right to require a certified audit at the Town's expense or may perform the audit through the use of its staff pertaining to the Company's compliance with the capital investment condition described in this Agreement during normal business hours and upon reasonable prior notice.

O.P. Incorporation of Company Performance Agreement, The One North Carolina Fund between Reliance Packaging, LLC, Alpha Industries, Inc. and the Town of Aberdeen. The Agreement entitled "Incorporation of Company Performance Agreement, The One North Carolina Fund between Reliance Packaging, LLC, Alpha Industries, Inc. and the Town of Aberdeen, effective the 6<sup>th</sup> day of April 2015" is incorporated into this Agreement by reference as if it was reproduced in its entirety herein.

P. \_\_\_\_\_

Q. \_\_\_\_\_

Q. Effective Date of This Agreement. The effective date of this Agreement shall be the date that the agreement is executed by all signatories.

IN WITNESS WHEREOF, the parties here to have made and executed this Agreement as of the day and year first above written.

**RELIANCE PACKAGING, LLC.**

By: \_\_\_\_\_  
Satish Sharma, President/Member

Date: \_\_\_\_\_

~~ALPHA INDUSTRIES, INC.~~  
ALPHA INDUSTRIES, INC.  
(GUARANTOR)

(SEAL)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

Authorized Corporate Officer

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Secretary

\_\_\_\_\_  
NORTH CAROLINA

\_\_\_\_\_  
COUNTY

I, \_\_\_\_\_, Notary Public for said County and State, do hereby certify that \_\_\_\_\_ (the "principal") personally came before me this day and/or (i) I have personal knowledge of the identity of the principal, and/or (ii) I have seen satisfactory evidence of the principal's identity, by current State or Federal identification with the principal's photograph, and such principal —acknowledged that he is President/Member of Reliance Packaging, LLC, a North Carolina~~Florida~~ limited liability corporation, and that he/she voluntarily signed the foregoing document for the purpose therein and in the capacity indicated.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2016\_\_\_\_\_.

(Official Seal)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
COUNTY

I, \_\_\_\_\_, Notary Public for said County and State, do hereby certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is \_\_\_\_\_ of ALPHA INDUSTRIES, INC., a New Jersey corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its \_\_\_\_\_, sealed with its corporate seal, and attested by himself/herself as its \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2016\_\_\_\_\_.

(Official Seal)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

TOWN OF ABERDEEN

By: \_\_\_\_\_  
\_\_\_\_\_ Robert Farrell, Mayor

Date: \_\_\_\_\_  
\_\_\_\_\_ Robert Farrell, Mayor

Date: \_\_\_\_\_

ATTEST BY:

(SEAL)

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

SEAL

APPROVAL BY TOWN FINANCE OFFICER

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
\_\_\_\_\_  
Beth Wentland, Finance Officer

**STATE OF NORTH CAROLINA  
COUNTY OF MOORE  
TOWN OF ABERDEEN**

**AGREEMENT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016 (the "Agreement"), by and between RELIANCE PACKAGING LLC (the "Company"), a North Carolina limited liability company doing business at 155 Anderson Street in Aberdeen, North Carolina, ALPHA INDUSTRIES, INC. a new Jersey Corporation (the "Guarantor"), and The TOWN OF ABERDEEN, a municipal corporation in the County of Moore in the State of North Carolina (the "Town").

**WITNESSETH**

**WHEREAS**, the Town has a public purpose of promoting economic development; and

**WHEREAS**, the Town finds that in order to stimulate the local economy and promote business, it is necessary and desirable to aid in the location and expansion of new industries within the Town; and

**WHEREAS**, the Town finds that the location of the Company in the Town will increase the Town's tax base and result in a substantial number of new jobs in the Town that pay at or above Moore County's average wage; and

**WHEREAS**, the Town applied for a One North Carolina Fund Grant from the State of North Carolina in the amount of \$52,000.00 to support the Company's location in the Town and was awarded said grant on April 6, 2015; and

**WHEREAS**, the One North Carolina Fund Grant requires a local government match to the funds allocated by the State; and

**WHEREAS**, pursuant to North Carolina General Statutes §§ 160A-20.1, 158-7.1 and 158-7.2, the Town desires to enter into an agreement with the Company for the Company's creation of new jobs and capital investment in the Town; and

**WHEREAS**, this Agreement shall specify the terms and conditions by which the Town agrees to provide a portion of the matching funds required by the One North Carolina Grant.

**WHEREAS**, the Town finds that the consideration the Town will receive, based on the Company expanding within the Town and the prospective increase in tax revenues and income coming to the Town over the next five (5) years, will be equal to or greater than the appropriation from the Town; and

**WHEREAS**, the Company expects to employ a minimum of forty-three (43) new full-time workers and invest in real and personal property having a tax value of at least \$3.15 million over the next five (5) years at the Facility; and

**WHEREAS**, the Guarantor has agreed to guarantee the performance and obligations of the Company hereunder, and its guaranty is made for the benefit of the Town and to induce the Town to enter into this Agreement, in consideration of the benefits provided to the Company and to the Guarantor.

**TERMS**

**NOW, THEREFORE**, for valuable consideration and mutual covenants exchanged between the parties hereto, it is agreed as follows:

1. *Commitments:*

A. Provided that the Company meets the performance thresholds in the One NC Fund Company Performance Agreement (the "CPA") by April 6, 2018, the Town agrees to pay the Company one or more incentive grants (the "Grants") of up to the total amount of \$24,997.00 in return for the Company's capital investment of 3.15 million dollars (\$3,150,000.00) and the creation of a minimum of forty-three (43) new full-time jobs that provide benefits and have an average weekly wage of \$610.00 per week at the Facility. Grants shall be paid over a five-year period commencing from the date of the first grant payment made by the Town, provided that no grants shall be paid after this Agreement has terminated as set forth in paragraph 7.

B. Full-time employment is a person working at least 35 hours a week, whose wages are subject to withholding and who is employed in a permanent position. Part-time, Full-Time Equivalent (FTE) positions, or contract and consulting jobs are not eligible.

C. Employee benefits means the Company will provide a minimum of at least 50% employer-paid health insurance for all full-time positions.

2. *Grant Disbursement:*

A. Grant payments from the Town to the Company shall be based on (i) the capital investment level by the Company as determined by the appraised tax value of property each year and (ii) the creation of new jobs, as well as (iii) the Town's applicable ad valorem tax rate each year. The payments, the total of which shall not be greater than \$24,997.00. The Company shall so notify the Town writing and provide the information required in paragraph 4 below.

B. If the Company makes the investments according to the schedule attached as Exhibit A as a guideline, then the Grant payments shall be:

Year 1: A Grant equal to ninety percent (90%) of the ad valorem Town taxes fully paid by the Company in that year.

Year 2: A Grant equal to eighty percent (80%) of the ad valorem Town taxes paid by the Company in that year.

Year 3: A Grant equal to seventy-five percent (75%) of the ad valorem Town taxes fully paid by the Company in that year.

Year 4: A Grant equal to seventy-five percent (75%) of the in ad valorem Town taxes fully paid by the Company in that year.

Year 5: A Grant equal to sixty percent (60%) of the ad valorem Town taxes fully paid by the Company in that year.

C. The first Grant payment (i.e. "Year 1") shall be made after the first disbursement made pursuant to the CPA, specifically CPA paragraph 2.1. Thereafter, the Town shall make four more yearly Grant payments in accordance with the schedule set forth herein.

D. If the Company makes the investments according to the schedule attached as Exhibit A as a guideline, the Town shall make Grant payments totaling \$24,997.00. If after the Year 5 Grant has been made, any money remains due and owing to the Company, the Town shall promptly make a sixth and final Grant payment for the remainder of the amount due. In the Town's discretion, the sixth Grant payment may be combined with the Year 5 Grant payment for a single final payment.

3. *Maintenance Period:* The Company agrees to maintain operations at the Facility for at least 150% of the term of the tax grant, estimated to be seven years and six months. If the Company fails to remain in the Facility for the required term, the claw-back provision as outlined in this Paragraph below will recapture all or part of the grant funds. If Company fails to fulfill any of its obligations under this Agreement, then in that event, the Town may hold the Company in default and, in addition to any and all other remedies the Town may have at law or in equity, may do any or all of the following: (a) terminate this Agreement and make no further payments to Company; (b) recover any and all payments made to the Company; and (c) recover all expenses incurred by the Town due to the default including reasonable attorney's fees. If Company is not current on all taxes, fees, assessments or other amounts owed to the City by Company related to the Project at the time an Grant is to be paid, the City may set off from any Grant any amount(s) so owed by Company to City; and (d) the City is not required to make any Grants to Company at any time after any public announcement by Company of its plan to cease utilization and/or marketing the Facility; and (e) the provisions of this Section III survive the termination of this Agreement.

4. *Documentation and Procedure:*

A. Prior to receiving the first Grant payment, the Company must submit the following documentation the Town's Finance Director to begin the Grants:

- i. Moore County Tax Assessor's listing of tax value for the property; and
- ii. A written request for incentive payment designating the year for which incentives are requested; and
- iii. Proof of payment of taxes due to the Town of Aberdeen for each year for which incentives are requested.

B. Employment targets will be verified through the information supplied by the Company to the NC Department of Commerce, Division of Employment Security; Company will supply a copy of each quarterly NCUI101 form to the Town with the annual request for payment

C. The Company must make a separate request for each of the five contemplated Grant payments and shall update the required documentation annually for each year in which incentives are requested.

D. Company shall promptly provide any and all such additional information evidencing compliance with this Agreement as the Town may request.

E. Grant requests shall be based on one Tax Year only, and Grant payments shall not be processed or paid more than once per fiscal year. In the event more than one payment is requested in a fiscal year, the first payment request received shall be processed and paid and the subsequent request shall be processed and paid in the following fiscal year.

F. Both parties agree that calculation of the incentives is based solely on the valuation of the Company's property by the Moore County Tax Assessor. The real property valuations made by the County Tax Assessor are deemed by both parties to be the conclusive and final determination of the investments made by the Company; provided, that the Company does not waive any rights it may have to dispute any assessment.

G. If the Assessed Value of the Project (or any part of it) is disputed by the Company, its agents, employees or lawyers, and as a result of such dispute, the Company withholds any part of payment of its *ad valorem* taxes to the Town, then the Town shall make the Grant payment as calculated only on the undisputed amount of the Assessed Value and increased number of jobs. Should the value be determined by a tribunal of proper jurisdiction or otherwise resolved, and the Company gives written notice to the Town that the dispute of valuation is resolved within the Payment Term, then the Town will make the payment on the amount so resolved upon the request of the Company and such documentation of the resolution as the Town may require. The Company shall notify the Town in writing of any appeal it makes to the Moore County Board of Equalization and Review and/or the N.C. Property Tax Commission. Failure to notify the Town of any appeals is a default under this Agreement.

H. In no case shall the Town make any Grant payment(s) for any year and any subsequent year during which the Company ceases to operate in the Town.

I. If Company is not current on all taxes, fees, assessments or other amounts owed to the Town by Company related to the Project at the time an EDI Grant is to be paid, the Town may set off from any Grant any amount(s) so owed by Company to Town.

5. *Indemnification and Limitations:* The Company will indemnify and hold harmless the Town, and its officers and employees (the "Indemnified Parties"), for damages imposed upon them by a court of final determination based on any claims of third parties arising out of any act or omission of the Company in the performance required of it by this Agreement, provided, however, that such indemnification shall not apply to third party claims arising out of or relating to an intentional or negligent act or omission of the Town. The Town agrees that none of the foregoing shall be construed to release the Town from the obligations it has undertaken elsewhere in this Agreement, in connection with the Grants or otherwise. Except as otherwise set forth herein, each Indemnified Party and the Company agrees to pay its own costs incurred in

connection herewith, including all costs incurred in connection with the preparation of this Agreement.

**THE COMPANY SHALL NOT BE LIABLE TO THE TOWN UNDER ANY CIRCUMSTANCES FOR ANY CLAIMS ARISING OUT OF ANY ACT OR OMISSION OF THE COMPANY IN THE PERFORMANCE REQUIRED OF IT BY THIS AGREEMENT FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST REVENUES AND PROFITS, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.**

6. *Disclaimer of Warranties:*

A. The Company acknowledges that the Town has not designed the Facility, that the Town has not supplied any plans or specifications with respect thereto and that the Town: (a) is not a manufacturer of, or dealer in, any of the component parts of the Facility or similar Facility, (b) has not made any recommendation, given any advice nor taken any other action with respect to (i) the choice of any supplier, vendor or designer of, or any other contractor with respect to the Facility or any component part thereof or any property or rights relating thereto or (ii) any action taken or to be taken with respect to the Facility or any component part thereof or any property or rights relating thereto at any stage of the construction thereof, (c) has not at any time had physical possession of the Facility or any component part thereof, and (d) has not made any warranty or other representation, express or implied, that the Facility or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the results which Company intends therefor, or (iii) is safe in any manner or respect.

B. The Town makes no express or implied warranty or representation of any kind whatsoever with respect to the Facility or any component part thereof, including but not limited to any warranty or representation with respect to the merchantability or the fitness or suitability thereof for any particular purpose, and further including the design or condition thereof, the safety, workmanship, quality, or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Facility's ability to perform any function; or any other characteristic of the Facility; it being agreed that as between the Town and Company, Company is to bear all risks relating to the Facility, the completion thereof or the transactions contemplated hereby and Company hereby waives the benefits of any and all implied warranties and representation of the Town.

C. The provision of this paragraph 6 shall survive the Agreement's termination.

7. *Termination of Agreement:* This Agreement shall terminate after the Town has made the last of the Grant payments required by this Agreement, or in no case later than ten years from the Agreement Date. After such termination, this Agreement will be null and void, and the parties to this Agreement will have no further obligations from one to the other thereafter, except as specifically noted in this Agreement.

8. *Assignments:* The Company shall not assign this Agreement or any portion thereof without the written consent of the Town which will not be unreasonably withheld, nor shall the Company assign any funds due or to become due to it hereunder without the prior written

consent of the Town; provided, however, the Company shall be permitted without obtaining the Town's consent to assign this Agreement or any portion thereof, or any funds due or to become due to it hereunder, to any direct or indirect wholly-owned subsidiary or other related party of the Company or to any company that is the successor by merger, asset purchase or otherwise to all or substantially all of its business, or to any person or entity that acquires the Project (and any such party shall assume all obligations of the Company under this Agreement), provided that Town Accountant is notified in writing of such assignment within thirty days. However, in the event of such assignment, the Company will still remain ultimately responsible and liable for the performance of the Company's obligations hereunder.

9. *Representations:*

A. The Company represents as of the date of this Agreement as follows:

- i. The Company (a) is a North Carolina limited liability company duly organized and validly existing under the laws of its state of organization; (b) is duly qualified to transact business and is in good standing in North Carolina; (c) is not in violation of any provision of its organizational documents; (d) has full power to own its properties and conduct its business; (e) has full power and authority to enter into this Agreement and to enter into and carry out the transactions contemplated by this Agreement; (f) by proper action has duly authorized the execution and delivery of this Agreement; and (g) is not in default under any provision of this Agreement.
- ii. The Company's execution and delivery of this Agreement neither conflicts with, nor will result in, a breach or default under its organizational documents; nor, to the best of its knowledge, will its execution and delivery conflict with, or result in, a breach or default under the terms, conditions, or provisions of any statute, order, rule, regulation, agreement, or instrument to which the Company is a party or by which it is bound; nor will its execution and delivery result in the imposition of any lien on its property.
- iii. The Company has duly authorized, executed, and delivered this Agreement, and to the Company's knowledge, this Agreement constitutes its legal, valid, and binding obligations, enforceable in accordance with its terms.
- iv. To the Company's knowledge, there is no litigation or proceeding pending or, to its knowledge, threatened against the Company, which would adversely affect the validity of this Agreement.

B. The Town represents as of the date of this Agreement as follows:

- i. To the best of the Town's knowledge at the time of execution of this Agreement, no officer or official of the Town has any interest (financial, employment, or other) in the Company or the transactions contemplated by this Agreement.
- ii. With respect to this Agreement, Town has complied fully with all requirements of N.C. General Statute 158-7.1, with the Town's ability and knowledge.

- iii. The Town shall make every effort to include the amounts of the grant payments in the Town's annual budget ordinance.

**C. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE TOWN WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS DELEGATING GOVERNMENTAL POWERS NOR AS A DONATION OR A LENDING OF THE CREDIT OF THE TOWN WITHIN THE MEANING OF THE STATE CONSTITUTION. THIS AGREEMENT SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLGATE THE TOWN TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE TOWN FOR ANY FISCAL YEAR IN WHICH THIS AGREEMENT SHALL BE IN FORCE. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED TO PLEDGE OR TO CREATE A LIEN ON ANY CLASS OR SOURCE OF THE TOWN'S MONEYS, NOR SHALL ANY PROVISION OF THE AGREEMENT RESTRICT TO ANY EXTENT PROHIBITED BY LAW, ANY ACTION OR RIGHT OF ACTION ON THE PART OF ANY FUTURE TOWN GOVERNING BODY. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS ARTICLE AND ANY OTHER PROVISION OF THIS AGREEMENT, THIS ARTICLE TAKES PRIORITY.**

10. *Guaranty:*

A. The Guarantor represents and warrants, as of the date hereof, and as of the date of any disbursement of grant funds, that (i) both the Company and Guarantor are duly organized, validly existing and in good standing under the laws of the States North Carolina and New Jersey, respectively, with power adequate for carrying out their businesses; (ii) the execution, performance and delivery of this Agreement are within the Company's and Guarantor's power and authority and the Company and Guarantor have duly authorized, executed and delivered this Agreement; and (iii) this Agreement is signed by an authorized representative of each of the Company and Guarantor, and is a legally and validly binding obligation of the Company and Guarantor, enforceable against them according to its terms, except as may be limited by bankruptcy, insolvency, or similar laws affecting creditors' rights; and (iv) it has taken or will take all actions reasonably necessary to carry out and give effect to the transactions contemplated by this Agreement; and (v) all written statements, representations, and warranties made by or on behalf of Company to the Town in connection with this Agreement and Grants are true, accurate and complete in all material respects, to its best knowledge and belief, and the Company is eligible for these Grants; and (vi) the Company and Guarantor are financially solvent and not subject to any bankruptcy proceedings; and have no interest, and shall not acquire any interest, direct or indirect, which would conflict with the performance of their obligations under this Agreement; and (vii) the making and performing of this Guaranty will not violate any provision of or result in the acceleration of any obligation under any instrument of agreement, order, judgement or decree to which the Guarantor is a party or by which it or

any of its property is bound. There are no conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived.

B. In order to induce the Town to enter this Agreement, and the Town to enter the Local Government Grant Agreement The One North Carolina Fund, Grant No. 2014-16038 (the "LGGA"), and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Guarantor unconditionally and irrevocably guarantees, as primary obligor and not as surety, the full, prompt, and punctual performance by the Company of all of the Company's obligations, agreements and covenants under and with respect to this Agreement. The Guarantor unconditionally guarantees, the prompt payment (and not merely the collection) of all amounts that may now or in the future be owing to the N.C. Department of Commerce, or the State, or the Town under this Agreement and the LGGA, or any extension or renewal thereof however and whenever made, and shall be liable for any remedies or recoveries (including the cost of attorney fees incurred in enforcing this Agreement and the LGGA) available to the Town under or with respect to this Agreement. The liability of the Guarantor shall be primary, joint and several.

C. This Guaranty shall operate as a continuing and absolute guaranty and shall remain in full force and effect without regard to, and shall not be affected or impaired by, any amendment of the Agreement, any sale or transfer of all or any part of the Guarantor's ownership interest in the Company, any voluntary or involuntary liquidation, dissolution, merger, sale of assets, insolvency, reorganization, bankruptcy or filing for bankruptcy of the Company or the Guarantor or any subsidiary, any rescission of a payment made hereunder, or any extension of time or other forbearance, compromise, adjustment, modification or indulgence granted to the Company by Town. The Guaranty shall remain in full force and effect until termination of the Agreement; provided, however, that the Guarantor shall not be released from its obligation hereunder so long as there is any claim of the Town against the Company, which claim arises out of, or related to, directly, or indirectly, this Agreement, that is not settled or discharged in full.

D. The Town may exercise its rights against the Guarantor without first having to take action or exhaust remedies against the Company. The Guarantor expressly waives notice of non-performance, in any respect, by Company of any of its duties and obligations. The Guarantor unconditionally waives any defense available to it, including all suretyship defenses or defenses in the nature thereof; all requirements of notice, demand, presentment or protest in case of any default by the Company, as well as rights of set-off, redemption, and counterclaim which may be alleged to exist in favor of the Company.

E. This Guaranty shall inure to the benefit of the Town and its respective successor and assigns, and shall be binding on the Guarantor, and its successors and assigns, and shall not be discharged or affected by the death of any party.

#### 11. *Miscellaneous:*

A. **Definitions.** All terms used in this Agreement and not otherwise defined will have their commonly accepted dictionary meanings.

B. **Governing Law.** The parties intend that the law of the State of North Carolina will govern this Agreement.

C. **Notices.**

- i. Any communication required or permitted by this Agreement must be in writing except as expressly provided otherwise in this Agreement.
- ii. Any communication under this Agreement shall be sufficiently given and deemed given when delivered electronically, by hand, by private delivery service or by US Postal Service, first-class certified mail, postage prepaid, and addressed as follows:

Satish Sharma  
Reliance Packaging LLC  
155 Anderson Street  
Aberdeen, NC 28315  
ssharma@reliancepkg.com

If to the Guarantor: Andrew Teo  
C/O Flexsol Packaging  
1531 NW 12<sup>th</sup> Ave.  
Pompano Beach, FL 33069  
andrew.teo@sigmaplastics.com

If to the Town: Town Manager  
Town of Aberdeen  
115 N. Poplar St.  
Aberdeen, NC, 28315  
  
P. O. Box 785  
Aberdeen, NC 28315  
  
bzell@townofaberdeen.net

With a required copy to: T.C. Morphis, Jr., Town Attorney  
The Brough Law Firm  
1829 E. Franklin Street, Suite 800A  
Chapel Hill, NC 27514  
  
morphis@broughlawfirm.com

Requests for Grant payments to: Beth Wentland, Finance Director  
Town of Aberdeen  
115 N. Poplar St.  
Aberdeen, NC, 28315

P. O. Box 785  
Aberdeen, NC 28315

Bwentland@townofaberdeem.net

Any addressee may designate additional or different addresses for communications by notice given under this Section to each other.

D. **Non-Business Days.** If the date for making any payment or performing any act or exercising any right is not a Business Day, such payment must be made or act performed or right exercised on or before the next Business Day. A Business Day shall be any day Monday through Friday excluding any day which is a legal holiday and the United States Post Office is closed for transactions.

E. **Entire Agreement: Amendments.** This Agreement, including any Exhibits attached, which is incorporated herein and made a part hereof constitute the entire contract between the parties. This Agreement may not be changed except in writing signed by all parties. **THIS AGREEMENT SUPERSEDES THE AGREEMENT EXECUTED BY THE PARTIES ON JUNE 24, 2015.**

F. **Binding Effect.** This Agreement is binding upon, inures to the benefit of and is enforceable by the parties and their respective successors and assigns. There are no other agreements or other conditions precedent to the binding nature of the respective obligations of the Town under Paragraphs 1 4, other than the performance by Company of its obligations under this Agreement.

G. **Time.** Time is of the essence in this Agreement and each and all of its provisions.

H. **Liability of Officers and Agents.** No officer, agent, or employee of the Town or Company shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent, or employee from the performance of any official duty provided by law.

I. **Counterparts.** This Agreement may be executed in several counterparts, including separate counterparts. Each shall be an original, but all of them together constitute the same instrument.

J. **Provide W-9 To Town.** Company shall provide a completed W-9 form to the Town upon execution of this Agreement.

K. **Dissolution of Company.** If the Company's legal entity is dissolved or suspended and the Company does not notify the Town of such dissolution in ten calendar days

and/or the entity status is not reinstated in thirty business days, this Agreement, at the sole option of the Town, shall be declared null and void or the Company shall execute a new Agreement showing the Company's correct legal entity.

L. **Notice of Potential Disclosure of Confidential Company Information.** The Company acknowledges that it has been informed by the Town that the Town is required by North Carolina law to disclose "Public Records" as the term is defined by North Carolina General Statutes § 132-1, upon request. All information disclosed to the Town by the Company which is subject to that definition and whose disclosure is not otherwise protected by law will be released by the Town upon request as provided by North Carolina General Statutes § 132-6. The Town may withhold from disclosure confidential records as defined by North Carolina General Statutes § 132-1.2. The Company acknowledges that it has read and is familiar with the Town's obligations of public disclosure of documents and the definitions of confidential documents as contained in Chapter 132 of the North Carolina General Statutes. In order to prevent the disclosure of the confidentiality of information identified by the Company as a trade secret or as "confidential" pursuant to North Carolina General Statute § 132.1.2 the Town shall, if it receives a request for disclosure of such information, notify the Company of such request so that the Company may defend any claims or disputes arising from efforts of others to cause such trade secrets to be disclosed as a public record. The Company acknowledges that this disclosure of the Town's public records requirements is given pursuant to North Carolina General Statutes § 132-1.8(b) and agrees that such disclosure is full and sufficient to the satisfaction of the Company. Both parties agree that this Section will survive the termination of the Agreement.

M. **Force Majeure.** Any delay in the performance of any of the duties or obligations of either party hereunder (the "Delayed Party") shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of any acts of God; acts of the public enemy; insurrections; riots; embargoes; labor disputes, including strikes, lockouts, job actions, or boycotts; shortages of materials or energy; fires; explosions; floods; changes in laws governing international trade; or other unforeseeable causes beyond the control and without the fault or negligence of the Delayed Party. The Delayed Party shall give prompt notice to the other party of such cause, and shall take whatever reasonable steps are necessary to relieve the effect of such cause as promptly as possible. No such event shall excuse the payment of any sums due and payable hereunder on the due date thereof except any payment due upon the occurrence of any act or event for which delayed performance is excused as provided above.

N. **Severability.** If any court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, then (a) such holding shall not invalidate or render unenforceable any other provision of this Agreement, unless such provision is contingent on the invalidated provision; and (b) the remaining terms hereof shall, in such event, constitute the parties' entire agreement.

O. **Audit Right.** The Town reserves the right to require a certified audit at the Town's expense or may perform the audit through the use of its staff pertaining to the

Company's compliance with the capital investment condition described in this Agreement during normal business hours and upon reasonable prior notice.

P. **Incorporation of Company Performance Agreement, The One North Carolina Fund between Reliance Packaging, LLC, Alpha Industries, Inc. and the Town of Aberdeen.** The Agreement entitled "Incorporation of Company Performance Agreement, The One North Carolina Fund between Reliance Packaging, LLC, Alpha Industries, Inc. and the Town of Aberdeen, effective the 6<sup>th</sup> day of April 2015" is incorporated into this Agreement by reference as if it was reproduced in its entirety herein.

Q. **Effective Date of This Agreement.** The effective date of this Agreement shall be the date that the agreement is executed by all signatories.

IN WITNESS WHEREOF, the parties here to have made and executed this Agreement as of the day and year first above written.

**RELIANCE PACKAGING, LLC.**

By: \_\_\_\_\_  
Satish Sharma, President/Member

Date: \_\_\_\_\_

**ALPHA INDUSTRIES, INC.  
(GUARANTOR)**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

Authorized Corporate Officer

Date: \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_, Secretary

NORTH CAROLINA  
\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, Notary Public for said County and State, do hereby certify that \_\_\_\_\_ (the "principal") personally came before me this day and/or (i) I have personal knowledge of the identity of the principal, and/or (ii) I have seen satisfactory evidence of the principal's identity, by current State or Federal identification with the principal's

photograph, and such principal acknowledged that he is President/Member of Reliance Packaging, LLC, a North Carolina limited liability corporation, and that he/she voluntarily signed the foregoing document for the purpose therein and in the capacity indicated.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2016.

(Official Seal)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
COUNTY

I, \_\_\_\_\_, Notary Public for said County and State, do hereby certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is \_\_\_\_\_ of ALPHA INDUSTRIES, INC., a New Jersey corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its \_\_\_\_\_, sealed with its corporate seal, and attested by himself/herself as its \_\_\_\_\_.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2016.

(Official Seal)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

TOWN OF ABERDEEN

By: \_\_\_\_\_  
Robert Farrell, Mayor

Date: \_\_\_\_\_

ATTEST BY:

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

(SEAL)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Beth Wentland, Finance Officer

**EXHIBIT A**

**Estimated Aberdeen Economic Development Grant - approved 11/17/14**

**2014 Tax Rates per \$100 Valuation**

- Moore County = \$.465
- Advanced Life Support/EMS = \$.02
- Town of Aberdeen = \$.43
- Aberdeen Fire District = \$.092

**Total Tax Rate = \$1.007**

	Per Project Summary Form 9/24/14					5-Year Total
	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2014-2018</u>
<b><u>\$ Investment</u></b>						
Building & Land	\$0	\$0	\$600,000	\$0	\$0	\$600,000
Machinery & Equipment	\$160,000	\$150,000	\$300,000	\$2,000,000	\$290,000	\$2,900,000
<b>Total Investment</b>	<b>\$160,000</b>	<b>\$150,000</b>	<b>\$900,000</b>	<b>\$2,000,000</b>	<b>\$290,000</b>	<b>\$3,500,000</b>
<b>Cumulative Tax Value of Investments</b>	<b>\$160,000</b>	<b>\$310,000</b>	<b>\$1,210,000</b>	<b>\$3,210,000</b>	<b>\$3,500,000</b>	<b>\$3,500,000</b>
<b><u>Property Taxes Paid</u></b>						
Advanced Life Support / EMS (\$.02)	\$32	\$62	\$242	\$642	\$700	\$1,678
Aberdeen Fire District (\$.092)	\$147	\$285	\$1,113	\$2,953	\$3,220	\$7,719
Moore County (\$.465)	\$744	\$1,442	\$5,627	\$14,927	\$16,275	\$39,014
Aberdeen (\$.43)	\$688	\$1,333	\$5,203	\$13,803	\$15,050	\$36,077
<b>Total Property Taxes Paid</b>	<b>\$1,611</b>	<b>\$3,122</b>	<b>\$12,185</b>	<b>\$32,325</b>	<b>\$35,245</b>	<b>\$84,487</b>
<b><u>Economic Dev. Grant - Aberdeen</u></b>						
Taxes Paid (\$.43)	\$688	\$1,333	\$5,203	\$13,803	\$15,050	
% of Taxes Paid	90%	80%	75%	75%	60%	
<b>Grant Amount - Aberdeen</b>	<b>\$619</b>	<b>\$1,066</b>	<b>\$3,902</b>	<b>\$10,352</b>	<b>\$9,030</b>	<b>\$24,970</b>
						<b>+\$27.00*</b>
						<b>=\$24,997</b>

\*Addition of \$27.00 necessary to bring the total tax incentive respectively approved by Aberdeen and Moore County to \$52,000 as the required match for a \$52,000 One North Carolina Fund grant.

> Actual grant amounts depend on appraisal value for real & personal property and the applicable tax rate each year.



## 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:** 8/29/16

**Agenda Item Title:** Conditional Use Permit CU #16-05 for The Academy of Moore

**Work Session - Board Action (date of meeting should be filled in on line) :**  
**Information Only** \_\_\_\_\_  
**Public Hearing** 9/26/16 \_\_\_\_\_  
**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:**  
Item to be scheduled for Public Hearing on 9/26/16 as a Consent Agenda item.

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



**MEMORANDUM TO THE BOARD OF COMMISSIONERS – September 12, 2016 Work Session**

**Applicant:**

The Academy of  
Moore County

**Request:**

Conditional Use  
Permit CU #16-05  
to Permit a School  
Use in the O-I  
District

**Location:**

12588 US Highway  
15-501

**Parcel ID:**

00049693

**Zoning:**

Office &  
Institutional (O-I)

**Existing Use:**

K-5 Charter School

**Proposed Use:**

Same

**Prepared by:**

Pamela Graham,  
Planning Director

**Description of Conditional Use Permit Request**

The Academy of Moore County requests a conditional use permit (CUP) to permit a school use in the Office & Institutional (O-I) Zoning District. In the course of reviewing plans for expansion of the use and structures for the existing school, staff discovered that the use is currently considered “legal nonconforming”. Approval of this request will remove the nonconforming status from the property; no changes in use or activities, other than those related to the expansion, are anticipated at this time.

**Recommendation**

Staff recommends that the Board schedule Conditional Use Permit CU #16-05 for Public Hearing and New Business on September 26, 2016 so that input from the public may be accepted and the applicant may receive a decision on the proposal.



## 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:** 8/29/16

**Agenda Item Title:** Conditional Zoning Request CZ #16-05 to Allow an Adult Day Care Facility at 316 Fields Drive

**Work Session - Board Action (date of meeting should be filled in on line) :**  
**Information Only** \_\_\_\_\_  
**Public Hearing** 9/26/16  
**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:**  
Item to be scheduled for Public Hearing on 9/26/16 as a Consent Agenda item.

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



**MEMORANDUM TO THE BOARD OF COMMISSIONERS – September 12, 2016 Work Session**

**Applicant:**

Douglas Mryglod

**Request:**

Conditional Zoning  
Request CZ #16-05

**Location:**

316 Fields Drive

**Parcel ID:**

00049159

**Existing Zoning:**

Commercial/Light  
Industrial (C-I)

**Requested Zoning:**

C-I-CD

**Prepared by:**

Pamela Graham,  
Planning Director

**History and Description of Conditional Zoning Request**

Douglas Mryglod has submitted an application to request Conditional Zoning CZ #16-05 from C-I (Commercial/Light Industrial) to C-I-CD for property located at 316 Fields Drive in Aberdeen. The applicant intends to use the property to create an adult day care. Aberdeen UDO's Table of Permissible Uses lists "Senior Citizen Day Care" as Use 22.200 and prohibits the use in the C-I District.

**Recommendation**

Staff recommends that the Board schedule Conditional Zoning CZ #16-05 for Public Hearing and New Business on September 26, 2016 so that input from the public may be accepted and the applicant may receive a decision on the proposal.



## 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:** 9/7/16

**Agenda Item Title:** Schedule Continued Public Hearing for CU #16-04 Submitted by George Nelson for Property Located on Lighthouse Circle

**Work Session - Board Action (date of meeting should be filled in on line) :**  
**Information Only** \_\_\_\_\_  
**Public Hearing** 9/26/16  
**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:**  
The Public Hearing held on 6/27/16 and 8/8/16 was continued until the 9/26/16 Board meeting. Consent agenda item.

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





**MEMORANDUM TO THE BOARD OF COMMISSIONERS – September 12, 2016 Work Session**

**Request:**

Appointment and  
Re-Appointment to  
the Planning Board

**Prepared by:**

Pamela Graham,  
Planning Director

**Description of Request**

The Aberdeen Planning Board has found itself in the unenviable position of needing to fill a vacancy resulting from Chairperson Johnny Ransdell's term expiration. Johnny has served on the Planning Board since being appointed for a partial term in 2008 and has served as Chair since 2011. He has agreed to continue to serve until a replacement has been sworn in. Particularly challenging is that the seat creates a vacancy that must be filled by a resident of the Town's ETJ. Planning staff feels very fortunate to have a viable interested candidate for filling this spot and requests that the Town Board consider making the appointment at their work session on 9/12/16. Heidi Whitescarver's application and resume are enclosed for your review.

Johnny has served with an incredible combination of sound level-headedness and geniality, and has managed to balance his interests in serving both the Town and its citizens and business owners under sometimes challenging circumstances. He has exhibited true leadership in this role. The Planning Board and staff find his pending departure bittersweet, and wish him the very best as he seeks to spend more time with family, including twin grandbabies.

Additionally, the appointment made in January of this year of Bill Prevatte was to fill a partial term that has also expired. Bill is eligible to be re-appointed to a full term that will end in June of 2019.

The Planning Board meets on the third Thursday of each month at Town Hall at 6:00 p.m. The Board of Commissioners is responsible for appointing persons to the Planning Board, a seven member board with two alternate seats. One regular and one alternate member must reside in the extra-territorial jurisdiction (ETJ). The Planning Board is an advisory body to the Town Board and deals with land use, zoning and development issues. They also make quasi-judicial decisions on Special Use applications.

The current composition and term expiration dates of the Planning Board representatives are as follows. The UDO provides for three (3) year terms expiring in

June with board members restricted to two full terms. The period of both terms to be filled shall expire in June of 2019.

- |  |   |
|--|---|
| 1. Johnny Ransdell (Chair)<br>June 2016<br>ETJ | 2. Raymond Lee (Vice Chair)<br>June 2017<br>In-Town |
| 3. Bryan Bowles<br>June 2018<br>In-town        | 4. Richard Gergle<br>June 2017<br>In-town           |
| 5. Tim Marcham<br>June 2018<br>In-town         | 6. Janet Peele<br>June 2017<br>In-town              |
| 7. Bill Prevatte<br>June 2016<br>In-town       | 8. Ron Utley (Alternate)<br>June 2017<br>In-town    |
| 9. Vacant (Alternate)<br>ETJ                   |   |

At this time, there are no qualified applicants to consider for the ETJ alternate.

**Staff Recommendation**

Staff recommends that the Board of Commissioners review Ms. Whitescarver's application and resume and consider making an appointment during the 9/12 Work Session.

Enclosures: Heidi Whitescarver Advisory Board Application  
Heidi Whitescarver Resume

*Town of Aberdeen*  
**Advisory Board Appointment Application**

The Town of Aberdeen encourages you to participate in local government by serving on one of the following advisory boards. The purpose of these boards is to assist the Town Commissioners in making effective decisions concerning local projects and issues affecting the quality of life of our community. If you are interested in being appointed, please complete this application and return it to *Town of Aberdeen, Regina Rosy, Town Clerk, P.O. Box 785, Aberdeen, NC 28315*. Your willingness to serve is greatly appreciated.

Please check area of interest below. You may mark more than one.

<input checked="" type="checkbox"/> Planning Board	<input type="checkbox"/> Appearance & Beautification Commission
<input type="checkbox"/> Historic Preservation Commission	<input type="checkbox"/> Malcolm Blue Farm Advisory Committee
<input type="checkbox"/> Parks & Recreation Advisory Committee	<input type="checkbox"/> Advisory Board _____

NAME: Heidi I. Whitescarver

ADDRESS: 12813 US Highway 15/501  
Aderdeen, NC 28315

EMAIL: heidi.whitescarver@gmail.com

TELEPHONE: (HOME) (910)986-8589 (WORK) (910) 944-1093

OCCUPATION: Retired Army Nurse, Volunteer Parish Nurse for Page Memorial

PAST OR CURRENT APPOINTMENT: None

BACKGROUND AND QUALIFICATIONS: (Resume or biography may be attached)  
20 years active duty service, with vairious leadership positions.

Resume attached

SIGNATURE:  DATE: 7/26/2016

I reside  Within Aberdeen's City Limits

**This application is a public record and may be retained for two (2) years**

**Heidi Whitescarver, RN, BSN, MPH**  
**Lieutenant Colonel, U.S. Army (Retired)**  
12813 US Highway 15/501, Aberdeen, North Carolina, 28315  
heidi.whitescarver@gmail.com (910) 986-8589

## **SUMMARY**

Highly creative public health professional with over 20 years experience in nursing and public health. Exceptional skills in community assessment, project implementation and program evaluation. Core strengths include; effective communication both oral and written, group facilitation, and team building.

## **KEY QUALIFICATIONS**

- Licensed RN
- Self-Motivated
- Facilitation
- Public Speaking
- Process Evaluation
- Program Management
- Health Education
- Collaboration
- Red Cross CPR & First Aid Instructor

## **EXPERIENCE**

### **Services Coordinator**

- Organized and executed community and workplace Influenza immunization campaigns, ultimately helping the organization to immunize 100% of the workforce.
- Collaborated with multiple community agencies to establish a wellness center, successfully opening the center on time and ready to serve clients.
- In observance of the American Cancer Society's Great American Smokeout, coordinated all aspects of a five kilometer fun run for 500 people, including route selection, water stops, advertising and promotional t-shirts.

### **Health Education**

- Oversaw the establishment of a standardized tobacco cessation education and treatment program for a population of 220,000 beneficiaries.
- Responded to a meningitis outbreak, providing community education on disease prevention, resulting in a high-risk-child receiving lifesaving treatment attributed to early identification of the infection.

- Implemented a plan to screen employees for potential exposure to rabies infected animals, successfully screened 25,000 employees in three days.

### **EMPLOYMENT HISTORY**

- 2000-2014, Public Health Nurse, U.S. Army
- 1994-1999, Medical/Surgical Nurse, U.S. Army

### **EDUCATION**

- Masters of Public Health, The University of Kansas, Lawrence, Kansas, 4.0 GPA; Recipient of the Annalee "Betsy" Bisecker Outstanding Public Health Student Award
- Bachelors of Science in Nursing, Western Kentucky University, Bowling Green, Kentucky
- U.S. Army: Principles of Military Preventive Medicine, basic and advanced courses





**MEMORANDUM TO THE BOARD OF COMMISSIONERS – September 12, 2016 Work Session**

**Request:**

Minor Modification  
to Conditional Use  
Permit CU #06-04

**Requested by:**

McKee Homes,  
LLC

**Prepared by:**

Pamela Graham,  
Planning Director

**Description of Request**

McKee Homes requests a Minor Modification from the Board for lot line adjustments for five lots in Legacy Lakes in order to achieve greater consistency with lot widths and frontages. While there are a total of thirteen lots that will be impacted by the adjustments, only five of them result in adjustments greater than five feet, the threshold agreed upon by the Board that meet the need for Board approval. A draft recombination plat is enclosed for reference. The proposed adjustments exceeding the five foot threshold are found on Lots 107 – 111, near the top right corner of the plat.

§152-65 of the UDO provides for the permit issuing authority to approve minor design modifications or changes in permits. Minor design modifications or changes are defined as those that have no *substantial* impact on neighboring properties, the general public, or those intended to occupy or use the proposed development, but where the impact is considered to be *discernible*. Staff has determined the proposed changes are discernible but insubstantial, and is requesting a decision from the Board on approval of the modifications.

**Staff Recommendation**

Staff recommends that the Board approve the request for minor modifications to CU #06-04 as illustrated in the attached recombination survey provided by Averette Engineering and subject to the following requirements:

1. Unless provided for as a part of this or previous modification, all other requirements of CU #06-04 must be met, including those shown on the approved plans.
2. Unless provided for as a part of this modification, all requirements of the Aberdeen Zoning Ordinance in effect at the time of the project approval except those already amended by the approval of CU #06-04 or a subsequently approved modification, shall be complied with.

3. Any approval of this modification request shall be limited to Lots 107, 108, 109, 110, and 111. Proposed adjustments to Lots 112 – 117 and 122 – 123 create impacts of less than five feet and are therefore under the authority of Planning Staff for approval. Adjustments shall not be applied to additional property without the expressed approval of the Board of Commissioners.

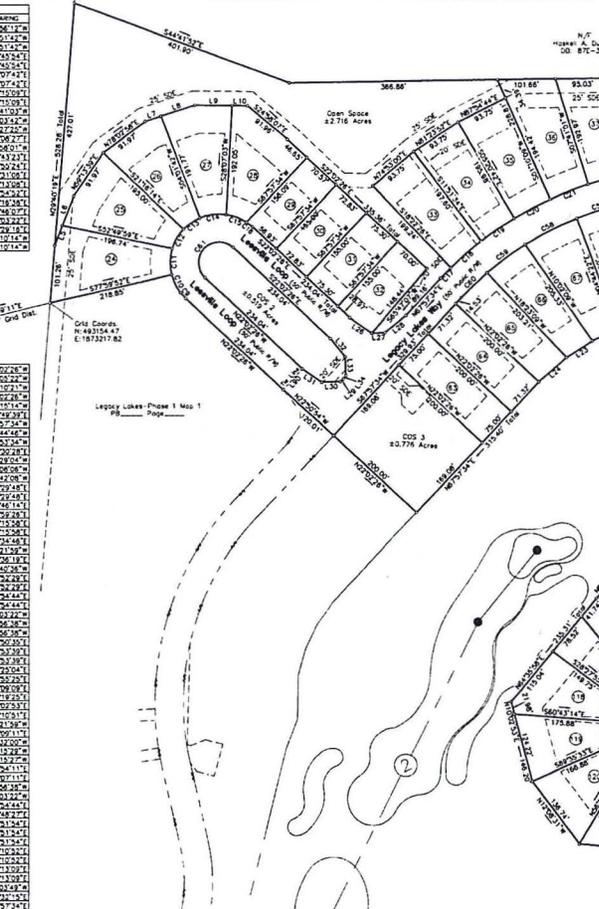
Enclosure: Legacy Lakes Final Plat, Phase 1 Map 2  
Draft Recombination Survey by Averette Engineering, dated 6/1/16



- E#1 Existing Iron Pin
- E#2 Iron Pin Set (if Recor)
- CM Corrected Monument
- PT Put
- N/E North or Farmer
- CCF Combined Grid Factor

LINE	LENGTH	BEARING	AREA
241	18.907	S 43° 02' 43"	0.43
25	18.300	S 42° 00' 00"	0.42
26	19.033	S 43° 02' 43"	0.43
27	18.771	S 43° 02' 43"	0.43
28	19.444	S 43° 02' 43"	0.43
29	19.444	S 43° 02' 43"	0.43
30	19.444	S 43° 02' 43"	0.43
31	19.444	S 43° 02' 43"	0.43
32	19.444	S 43° 02' 43"	0.43
33	19.444	S 43° 02' 43"	0.43
34	18.771	S 43° 02' 43"	0.43
35	18.300	S 42° 00' 00"	0.42
36	18.907	S 43° 02' 43"	0.43
37	18.300	S 42° 00' 00"	0.42
38	18.300	S 42° 00' 00"	0.42
39	18.300	S 42° 00' 00"	0.42
40	18.300	S 42° 00' 00"	0.42
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42	18.300	S 42° 00' 00"	0.42
43	18.300	S 42° 00' 00"	0.42
44	18.300	S 42° 00' 00"	0.42
45	18.300	S 42° 00' 00"	0.42
46	18.300	S 42° 00' 00"	0.42
47	18.300	S 42° 00' 00"	0.42
48	18.300	S 42° 00' 00"	0.42
49	18.300	S 42° 00' 00"	0.42
50	18.300	S 42° 00' 00"	0.42
51	18.300	S 42° 00' 00"	0.42
52	18.300	S 42° 00' 00"	0.42
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94	18.300	S 42° 00' 00"	0.42
95	18.300	S 42° 00' 00"	0.42
96	18.300	S 42° 00' 00"	0.42
97	18.300	S 42° 00' 00"	0.42
98	18.300	S 42° 00' 00"	0.42
99	18.300	S 42° 00' 00"	0.42
100	18.300	S 42° 00' 00"	0.42

LINE	LENGTH	BEARING	AREA
C1	10.41	S 75.00	10.08
C2	129.84	S 75.00	129.18
C3	58.70	S 60.00	58.37
C4	75.70	S 60.00	75.00
C5	25.37	S 60.00	25.00
C6	48.23	S 60.00	48.00
C7	28.09	S 60.00	28.00
C8	13.70	S 60.00	13.68
C9	33.47	S 60.00	33.23
C10	48.31	S 60.00	48.00
C11	48.31	S 60.00	48.00
C12	40.46	S 60.00	40.33
C13	35.41	S 60.00	35.18
C14	48.89	S 60.00	48.31
C15	35.41	S 60.00	35.18
C16	13.70	S 60.00	13.68
C17	33.47	S 60.00	33.23
C18	33.47	S 60.00	33.23
C19	71.80	S 60.00	71.78
C20	71.80	S 60.00	71.78
C21	71.80	S 60.00	71.78
C22	71.80	S 60.00	71.78
C23	71.80	S 60.00	71.78
C24	71.80	S 60.00	71.78
C25	71.80	S 60.00	71.78
C26	71.80	S 60.00	71.78
C27	71.80	S 60.00	71.78
C28	71.80	S 60.00	71.78
C29	71.80	S 60.00	71.78
C30	71.80	S 60.00	71.78
C31	71.80	S 60.00	71.78
C32	71.80	S 60.00	71.78
C33	71.80	S 60.00	71.78
C34	71.80	S 60.00	71.78
C35	71.80	S 60.00	71.78
C36	71.80	S 60.00	71.78
C37	71.80	S 60.00	71.78
C38	71.80	S 60.00	71.78
C39	71.80	S 60.00	71.78
C40	71.80	S 60.00	71.78
C41	71.80	S 60.00	71.78
C42	71.80	S 60.00	71.78
C43	71.80	S 60.00	71.78
C44	71.80	S 60.00	71.78
C45	71.80	S 60.00	71.78
C46	71.80	S 60.00	71.78
C47	71.80	S 60.00	71.78
C48	71.80	S 60.00	71.78
C49	71.80	S 60.00	71.78
C50	71.80	S 60.00	71.78
C51	71.80	S 60.00	71.78
C52	71.80	S 60.00	71.78
C53	71.80	S 60.00	71.78
C54	71.80	S 60.00	71.78
C55	71.80	S 60.00	71.78
C56	71.80	S 60.00	71.78
C57	71.80	S 60.00	71.78
C58	71.80	S 60.00	71.78
C59	71.80	S 60.00	71.78
C60	71.80	S 60.00	71.78
C61	71.80	S 60.00	71.78
C62	71.80	S 60.00	71.78
C63	71.80	S 60.00	71.78
C64	71.80	S 60.00	71.78
C65	71.80	S 60.00	71.78
C66	71.80	S 60.00	71.78
C67	71.80	S 60.00	71.78
C68	71.80	S 60.00	71.78
C69	71.80	S 60.00	71.78
C70	71.80	S 60.00	71.78
C71	71.80	S 60.00	71.78
C72	71.80	S 60.00	71.78
C73	71.80	S 60.00	71.78
C74	71.80	S 60.00	71.78
C75	71.80	S 60.00	71.78
C76	71.80	S 60.00	71.78
C77	71.80	S 60.00	71.78
C78	71.80	S 60.00	71.78
C79	71.80	S 60.00	71.78
C80	71.80	S 60.00	71.78
C81	71.80	S 60.00	71.78
C82	71.80	S 60.00	71.78
C83	71.80	S 60.00	71.78
C84	71.80	S 60.00	71.78
C85	71.80	S 60.00	71.78
C86	71.80	S 60.00	71.78
C87	71.80	S 60.00	71.78
C88	71.80	S 60.00	71.78
C89	71.80	S 60.00	71.78
C90	71.80	S 60.00	71.78
C91	71.80	S 60.00	71.78
C92	71.80	S 60.00	71.78
C93	71.80	S 60.00	71.78
C94	71.80	S 60.00	71.78
C95	71.80	S 60.00	71.78
C96	71.80	S 60.00	71.78
C97	71.80	S 60.00	71.78
C98	71.80	S 60.00	71.78
C99	71.80	S 60.00	71.78
C100	71.80	S 60.00	71.78



**Certificate of Final Major Subdivision Plat Approval**

I hereby certify that the subdivision description herein has been granted final approval pursuant to the Subdivision Regulations of Moore County, North Carolina subject to the filings recorded in the Office of Register of Deeds within 60 days of the date hereof. I further certify that streets, utilities and other improvements have been installed in an acceptable manner and according to specifications of Moore County in the subdivision description herein or that a performance bond or other sufficient security in the amount of \$1,000,000.00 has been posted with Moore County to ensure completion of required improvements.

**Register of Deeds** *10 July 2009*  
 Subdivision Administrator

**NDOT Division of Highway District Engineer Certificate**

I hereby certify that the streets as depicted herein are/are not consistent with the requirements of North Carolina Department of Transportation, Division of Highway.

**District Engineer** \_\_\_\_\_  
 Date: \_\_\_\_\_

**Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements**

I hereby certify that I have inspected and find that the following streets, utilities, and other required improvements as shown on the preliminary and final plats of the Legacy Lakes Subdivision have been installed in an acceptable manner and according to county and state specification and standards.

**William F. Plow** *7/10/09*  
 Licensed Professional Engineer

Registration Number: \_\_\_\_\_

**Review Officer Certification**

The following certificate shall be shown on all subdivision plats:

I, **James E. Callahan**, Review Officer of Moore County, North Carolina, certify that the map or plat which this certification is affixed meets all statutory requirements for recording.

**James E. Callahan** *7/10/09*  
 Review Officer

**Certificate of Warranty**

I hereby certify that I know of no defects from any cause and will fully warrant all improvements which have been installed to the Area depicted in this plat and warranting for a period of one (1) year from the date. Any improvements yet to be installed will be fully warranted in the same manner for a period of one (1) year from the date of the release of guarantees. In the event that defects are discovered in any such improvements during the warranty period, I shall repair and/or replace the defective improvements at my own expense.

**District Engineer** \_\_\_\_\_  
 Date: *7/10/09*

**Attest:** **Deborah Martin** *7/10/09*  
 County Clerk

**Public Street Maintenance Disclosure Statement**

The following statement shall be posted on all subdivision plats that include newly constructed streets intended to be maintained by the NCDOT:

"The maintenance of public streets shown on this plat is intended to be the responsibility of the North Carolina Department of Transportation, provided that all requirements for acceptance are met. Until such time as the NCDOT accepts the street(s), it is the responsibility of the applicant to maintain the street(s)."

- Note:
1. Lead Reference(s) - Deed Book 2877, Page 249
  2. Lead Reference No. - #40813
  3. Current Owner - FE Partners, LLC
  4. All bearings are N or S bearings.
  5. All distances are shown horizontal.
  6. All distances are Horizontal distance a Combined Grid Factor (CGFF) of 0.99998581.
  7. Lot Area - 245,190 Acres. Lot area shown on this plat was N/A - 27,826 Acres.
  8. Area shown determined by coordinate compilation.
  9. All areas are in Acres.
  10. All bearings are N or S bearings.
  11. No property is located in a special flood hazard area of the State as shown on the Flood Insurance Rate Map of Moore County, North Carolina, effective 10/17/2006.
  12. No survey was performed without benefit of a Title Commitment Report.
  13. No North Carolina Grid Coordinates shown on this map were derived by state differential GPS measurements using Trimble 4700 Receiver and processed using Online Postprocessing User Service.

**RES. JUDITH MARTIN**  
**COUNTY CLERK**  
 MOORE COUNTY, NORTH CAROLINA

PLAT CABINET 73, SLIDE 874

**Final Plat for Legacy Lakes Phase 1 Map 2 City of Aberdeen, Moore County, North Carolina Sandhills**

**Land Design Surveying**  
 Phone: (704) 376-9777  
 Fax: (704) 376-2448  
 223 North Graham St.  
 Charlotte, NC 28202

Scale: 1"=100' 100 50 0 100

Date: June 27, 2007  
 Project Number: 410028

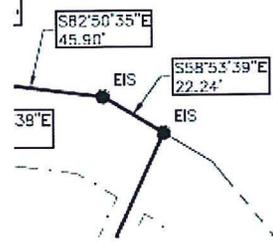
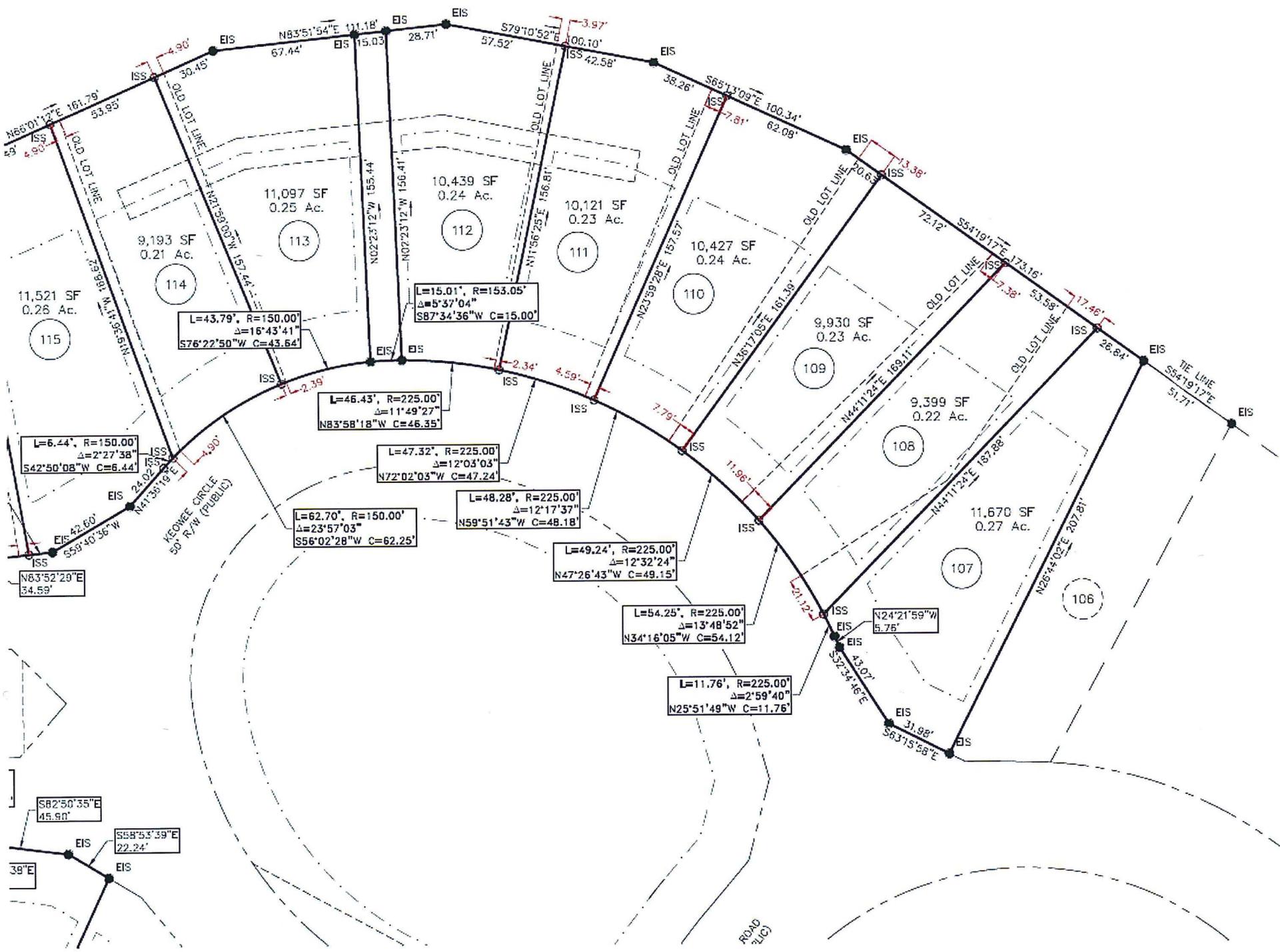
Revision 1  
 Revision 2

**Charles E. Martin**  
 Registration No. L-4502 N.C.

I, Charles E. Martin, certify that this plat was drawn under my supervision from an actual survey made under my supervision (said description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Moore County, North Carolina, and that the boundaries and acreage are correctly indicated as shown on this plat. That this plat was prepared in accordance with G.S. 47-30 and otherwise that this plat represents a subdivision of land within a county or municipality that has an ordinance that requires plats of this nature to be recorded.

Witness my original signature, registration number and seal this 27th day of June, A.D. 2007.





ROAD (LIC)



## 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:** 8/29/16

**Agenda Item Title:** Request to Permit Metal Siding on Proposed Industrial Building for 301 Fields Drive

<b>Work Session - Board Action (date of meeting should be filled in on line) :</b>	
Information Only _____	
Public Hearing _____	
Approval at work session - immediate action <u>9/12/16</u>	
<b>Regular Board Meeting - Board Action (date of meeting should be filled in on line):</b>	
New Business _____	Information Only _____
Old Business _____	Consent Agenda _____
Public Hearing _____	Informal Discussion & Public Comment _____
Other Business _____	

**Summary of Information:**

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



**MEMORANDUM TO THE BOARD OF COMMISSIONERS – September 12, 2016 Work Session**

**Request:**

Permit Metal Siding  
for a Proposed  
Industrial Building  
on 301 Fields Drive

**Requested by:**

Marsh Smith

**Parcel ID:**

00047345

**Existing Zoning:**

Commercial/Light  
Industrial (C-I)

**Prepared by:**

Pamela Graham,  
Planning Director

**History and Description of Request**

Marsh Smith, representing Tony Inglese of Elite Roofing requests that the Board of Commissioners consider approval of metal siding on a proposed building addition at the company's operation near the corner of Fields Drive and Highway 5. During their 8/22/16 meeting, the Board of Adjustment approved a variance to allow the placement of the structure, which did not meet the minimum building setback requirements. Subsequent to that, Mr. Inglese contacted staff regarding next steps for zoning approval. As the original submittal indicated metal siding for the structure, staff reminded Mr. Inglese that metal siding was restricted (an email originally sent on 6/22 was re-sent to him on 8/23/16 with this information). A letter explaining the request for the Board to consider this item was received on 8/26/16.

Aberdeen UDO §152-163.13 states, in part, that metal buildings may be approved by the Board of Commissioners for industrial applications upon the determination that the use of any other material would be deemed unsafe or impractical. This wording allows the Board to make an administrative decision on the request that is not quasi-judicial or require a public hearing. The Board has only to consider whether the "unsafe or impractical" standard applies to the request. Otherwise, restrictions of the use of metal siding are as follows:

1. When visible from roadways, easements or any public viewing area such as park lands, 100% of the primary building material of the façade (whether front, side or rear) shall be constructed of or covered with glass, wood, brick, stone, split-face block, pre-cast concrete (if the surface is painted, textured or designed to simulate brick, stone or lap siding), vinyl or fiber cement lap siding or architectural concrete (if the surface is designed to simulate brick or stone);
2. A minimum of fifty (50) percent of each side façade shall be constructed of or covered with glass, wood, brick, stone, split-face block, pre-cast concrete (if the surface is painted, textured or designed to simulate brick, stone or lap siding), vinyl or fiber cement lap siding or architectural concrete (if the surface is designed to simulate brick or stone). These materials shall extend

horizontally throughout the side façade and shall not be used to solely frame the edges;

3. Metal buildings are allowed in commercially zoned districts when all corrugations are less than 5/16<sup>th</sup> of an inch in depth and there are no exposed rivets;
4. Metal accessory buildings of 100 square feet or less are allowed in all districts.

### **Recommendation**

Staff recommends that the Board consider the request for metal siding for the proposed structure at 301 Fields Drive and render a decision at their earliest convenience.

Enclosures:      Copy of Letter from Marsh Smith dated 8/26/2016  
                         Zoning Compliance Application dated 6/6/2016  
                         Copy of 8/23/16 email to Tony Inglese  
                         Images (3 pages)

## Law Office of Marsh Smith, P.A.

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Physical Address: 255 West New York Avenue, Southern Pines, NC 28387

Mailing Address: PO Box 1075, Southern Pines, NC 28388-1075

Phone: (910) 695-0800 / Fax: (910) 695-0903

E-mail: marsh@marshsmithlaw.com

26 August 2016

VIA EMAIL

Pam Graham, Planning Director  
Aberdeen Board of Adjustment  
115 N. Poplar St.  
Aberdeen, NC 28315

Re: Request to Expand Building Consistently With Existing  
Exterior, Under Variance Granted on 22 August 2016

Dear Pam:

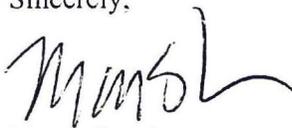
A question has arisen as to the type of siding allowed on the expansion to the building at 301 Fields Dr. in Aberdeen owned by the Inglese family and leased by Elite Roofing, LLC, the family's business. As you know, the building currently has siding standard to metal buildings of its vintage along its entire length of 150'.

Earlier this month, the Aberdeen Board of Adjustment granted a variance to expand this building 24' to the northwest – an increase in length of approximately 16%. Mr. Tony Inglese, the manager of both the tenant LLC (Elite Roofing, LLC) and the LLC, which owns the building (T&K Properties of Moore County, LLC), would like for this addition to use the same type of siding.

Since Section 152-163.13(B) of Aberdeen's UDO appears to allow Aberdeen's Board of Commissioners the discretion to approve such siding, I request that this be put on the Agenda for the next available meeting of Aberdeen's Board of Commissioners for such a decision to be considered by the Board.

Please let me know, when/if the Board can accommodate this request. Thanks!

Sincerely,



Marsh Smith

cc: Tony Inglese



# TOWN OF ABERDEEN

115 N. Poplar Street  
Planning / Zoning / Inspections  
910-944-7024 910-944-7459 (fax)

RECEIVED

JUN - 6 2016

## CERTIFICATE OF ZONING COMPLIANCE TOWN OF ABERDEEN Zoning Compliance Permit Fee = \$50 Site Plan May Be Required (tbd by Planning Director)

Subject Property Street Address: 301 Fields Dr Aberdeen

Reason for Use Requested: Addition

Applicant (name/company name): McFadden Homes Inc

Contact person: Bruce McFadden

Mailing Address: Po Box 881 City: Pinebluff State: NC Zip 28370

Email Address: mcfaddenhomebuilders@gmail.com

Phone # 295 1093 Cell # 690 5048

Property Owner: Elite Roofing LLC

Mailing Address: 301 Fields Dr City: Aberdeen State: NC Zip 28315

Email Address: \_\_\_\_\_

Phone # \_\_\_\_\_ Cell # 783 4300

I further certify that I, the undersigned, am the owner of the subject property or I am making application with the full authority of the owner(s) and the statements herein are true and correct to the best of my knowledge. I also certify that I have or will comply with all applicable Town of Aberdeen, Moore County, or State of North Carolina Statutes, Codes, Ordinances or Regulations.

Applicant/Owner [Signature]

Date 5/15/16

Remarks: C-T zoning; set backs - rear = 25' + (side = 15')

## Pam Graham

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**From:** Pam Graham  
**Sent:** Tuesday, August 23, 2016 4:53 PM  
**To:** 'tony@eliteroofingnc.com'  
**Cc:** Kathy Blake  
**Subject:** Elite Roofing addition  
**Attachments:** Metal Buildings.pdf

Tony,

Congratulations on getting your variance last night. I have had an extremely busy day but plan to work with Kathy tomorrow to get your zoning permit ready for issuance.

I have pasted below the contents of an email sent to you on 6/22 and want to point out item #5 regarding the siding material for the addition. We will need to know what exterior siding material you are proposing and make sure that it meets the attached ordinance prior to releasing the zoning permit. If you can get that to us at your earliest convenience we should be able to wrap the zoning side up pretty quickly. Our Permit Technician Amy Fulp can get you started on the building permit requirements following that.

Kathy has brought your proposal to me to assist with a response and to let you know your options. Based on the information I have, please be advised of the following:

1. Based on the survey your existing building does not comply with setback requirements for the property line adjacent to the railroad right-of-way. As an existing structure, it is "grandfathered" meaning that it can remain as is and is considered "legal nonconforming". The side setback requirement is 15' and you are between 1 and 2'.
2. Our ordinance does not allow extensions or enlargements of nonconforming situations, meaning that you may not add on to the existing structure or create a new structure that does not comply with the setbacks.
3. Option 1: construct the addition so that it meets the 15' setback.
4. Option 2: ask the Board of Adjustment for a Variance. The application and related information are attached. The Board meets on an as-needed basis but does not meet in July. We can schedule something for as early in the month of August as possible.
5. I also want to mention that our ordinance also restricts metal siding for new buildings. I do not see anything in the proposal that indicates the siding material, but wanted you to be aware of this in case that is something you are considering. I am attaching the section of the ordinance that details the requirements.

Please let us know if you have questions and how you wish to proceed. The Variance option is available to you, but I want to caution that the ability for the Board to approve them is somewhat limited by state statute, as you will see in the ordinance. There is also a \$250 fee that is nonrefundable regardless of their decision.

Pamela Graham, AICP, PLA, CZO  
Planning Director, Town of Aberdeen

