

**SECTION 9** **CONDITIONAL USE PERFORMANCE STANDARDS**

**9.1 AUTHORITY**

The Arundel Planning Board shall have the power to hear and decide only those conditional uses which are authorized by this ordinance and which are specifically listed as conditional uses.

**9.2 CONDITIONAL USE PERMITS**

**9.2.1 PURPOSE AND AUTHORIZATION**

~~The purpose of site plan/Site Plan/Conditional Use reviews of conditional uses is to insure adequate scrutiny of plans for certain uses which have the potential to significantly impact a neighborhood environment and affect the public safety, health and welfare. The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits, in accordance with State Law and the provisions of this ordinance. The Board shall approve, approve with modifications or conditions, or deny applications for a Conditional Use Permit classified as major developments. Minor developments shall be reviewed by the Staff Review Committee. (Amended June 13, 2013)~~

**9.2.2 CLASSIFICATION FOR REVIEW**

~~Conditional uses classifications shall be determined by the Codes Enforcement Officer and classified as either minor or major developments as follows:~~

~~1. Minor Developments~~

- ~~a. Any expansions of an existing conditional use either in floor space or ground area, by 25% or 500 sq. ft., whichever is less since 1979. (Amended June 15, 2011)~~
- ~~b. A change of use from permitted to conditional use that does not involve any change in the building coverage, parking, driveways or other site plan/Site Plan/Conditional Use details. (Amended June 13, 2001, June 15, 2011)~~
- ~~c. Filling of a wetlands which require N.R.P.A. permits from D.E.P. or Nationwide Permits from the A.C.O.E.~~

~~2. Major Developments~~

~~Any development not classified as minor requiring a Conditional Use Permit shall be reviewed by the Planning Board.~~

**9.2.3 EXISTING CONDITIONAL USE OR STRUCTURE**

~~A Conditional Use which lawfully existed prior to the effective date of this ordinance may be expanded or changed to another Conditional Use category as listed in the district sections, in conformity with all regulations of this ordinance pertaining to Conditional Uses, under the following provisions: (Amended June 12, 1996)~~

- ~~1. By permit by the Codes Enforcement Officer if the change of use will not result in expansion or intensification of use or the expansion of a structure or outdoor storage or parking areas; (Amended June 12, 1996)~~
- ~~2. By approval of the Staff Review Committee, if the change of use will result in intensification of use but not a substantial expansion of use as defined. (Adopted June 12, 1996)~~
- ~~3. By Planning Board approval for substantial expansions of use as defined. (Adopted June 12, 1996)~~

**9.2.49.2.1 APPLICATION PROCEDURE & SUBMISSION REQUIREMENTS**

The Conditional Use Permit review process shall subscribe to the same submission requirements and review procedures as for a ~~Site Plan~~Site Plan Review application, as prescribed in LUO §10.34-10.109.

**~~9.2.9 STANDARDS FOR A CONDITIONAL USE PERMIT~~**

~~An applicant, who seeks a Conditional Use Permit, shall submit to the Board or Committee adequate evidence which will become part of the record, illustrating the proof required by this section. The Board shall review the application in accordance with all of the evidence submitted by the applicant, and shall make specific factual findings that the following are met:~~

- ~~1. That the use is compatible with and similar to the general categories of uses of neighboring properties.~~
- ~~2. That the use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood.~~
- ~~3. That there is adequate and safe pedestrian and vehicular access to and into the site to accommodate anticipated traffic to and from the use.~~
- ~~4. That there is adequate water supply and sewage disposal available to service the use.~~
- ~~5. That there will be no noise, dust, odor, vibration or smoke generated by the use that will adversely affect neighboring properties.~~
- ~~6. That the physical characteristics of the site including location, slope, soils, drainage and vegetative cover are suitable for the proposed use.~~
- ~~7. That the use will not constitute a public or private nuisance.~~
- ~~8. That all other requirements and applicable provisions of this ordinance, particularly any pertinent performance standards, are met.~~

**~~9.2.10~~ 9.2.2 **CONDITIONS ATTACHED TO CONDITIONAL USES****

Upon consideration of the factors listed above, the Board or Committee may attach such conditions, in addition to those required in this ordinance that it finds necessary to further the purposes of this ordinance. Violation of any of these conditions shall be a violation of this ordinance. Such conditions may include, but are not limited to, specification for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operations controls; professional inspection and maintenance; sureties; deed restrictions, restrictive covenants; locations of piers, docks, parking and signs; type of construction; or any other conditions necessary to fulfill the purposes of this ordinance at the expense of the applicant. (Amended June 12, 1996)

**~~9.2.11~~ 9.2.11 **APPEALS****

~~Decisions of the Planning Board on conditional use applications are not appealable to the Arundel Board of Appeals, but may be appealed to the Superior Court pursuant to M.R.Civ.P. 80 (b).~~

**SECTION 10 SITE PLANSITE PLAN/CONDITIONAL USE  
REVIEW**

**10.1 PURPOSE**

The purpose of Site Plan Site Plan/Conditional Use Review by the Planning Board is to promote the proper design and construction of non-residential uses, multi-family residential, mining, and similar activities in a manner that is consistent with the general character and environmental quality of the community, and preserves the safety, health and general welfare of the Town of Arundel.

**10.2 APPLICABILITY**

**10.2.1 JURISDICTIONAL ACTIVITIES:** The requirements of this Section ~~42~~ shall apply to the following activities:

- ~~1.~~ 1. The one-time construction or expansion of any non-residential structure or building in excess of a total floor area of ~~1,000-2500~~ square feet, or the establishment of new non-residential use involving more than ~~1,000-2500~~ square feet of area, even where no buildings or structures are proposed;
- ~~1.2.~~ 1.2. The conversion of 1,000 square feet of floor area or more in an existing building or use, in whole or in part, from a residential to a non-residential use;
- ~~2.~~ 2. The conversion of 1,000 square feet of floor area or more in an existing building or use, in whole or in part, from a residential to a non-residential use;
3. The construction, modification, expansion, or conversion of any building that currently contains or is proposed to contain three (3) or more residential dwelling units;
4. Change of use in an existing facility of area of 4,000 square feet or more, or a change of use generating 10% or more increase in motor vehicle trip generation from the site.
5. A one-time construction or expansion of all off-street parking and loading facilities involving 810 square feet or more of area, and driveway entrances to non-residential and residential uses containing three (3) or more residential units;
6. Any activity or improvement that expands the total impervious area on the lot to 50% or more.
7. Earth moving activities, including deposition, excavation, and site grading involving in excess of one hundred (100) cubic yards of material which is not associated with an approved building construction project and not exempt per Section 10.2.2.
8. Establishment or expansion of a Home Occupation.
9. The installation or modification of signage in excess of thirty (30) square feet in area.

**10.2.2 EXEMPTIONS FROM SITE PLANSITE PLAN/CONDITIONAL USE REVIEW:**

The following activities shall be exempt from ~~site plan~~Site Plan/Conditional Use review.

1. Construction or modification of single or two-family dwellings.
2. Location of farm stands of 200 square feet or less of gross leasable area.
3. Outdoor agriculture and cultivation of crops.
4. Temporary structures.
5. Earth moving activities associated with installation of ornamental landscaping, normal property maintenance, and farming activities.
6. Municipal uses.
7. Forest management.

**10.2.3 PERMIT REQUIRED:**

No land, building, or structure shall be constructed, used, or occupied, no earthmoving activity shall commence, and no building permit, sign permit, or certificate of occupancy shall be issued for any activity within the scope of this section unless and until a final plan of the proposed development has been approved in accordance with the procedures set forth below.

### 10.3 CLASSIFICATION OF PROJECTS

Projects subject to ~~Site Plan~~Site Plan/Conditional Use Review shall be classified into two categories, those subject to *Administrative ~~Site Plan~~Site Plan/Conditional Use Review* and those subject to *Plenary ~~Site Plan~~Site Plan/Conditional Use Review*.

#### 10.3.1 ADMINISTRATIVE ~~SITE PLAN~~SITE PLAN/CONDITIONAL USE REVIEW: Administrative ~~Site Plan~~Site Plan/Conditional Use Review is required for the following activities:

1. A one-time construction or expansion of a non-residential parking and driveway area in excess of 810 square feet or three (3) parking spaces.
2. One time construction or expansion of a non-residential or multi-family building or use to a maximum of 2,500 square feet.
3. Excavation or deposition of earth material between 101 and 500 cubic yards per calendar year not associated with construction of a proposed building, and not requiring a Natural Resources Protection Act Permit from the Maine Department of Environmental Protection.
4. Establishment or expansion of a Home Occupation.
5. Installation of new signage or modification of existing signs in excess of thirty (30) square feet in area.

#### 10.3.2 PLENARY ~~SITE PLAN~~SITE PLAN/CONDITIONAL USE REVIEW:

*Plenary ~~Site Plan~~Site Plan/Conditional Use Review* is required for all activities subject to ~~site plan~~Site Plan/Conditional Use review which are not enumerated in Section 10.3.1 above. In addition, the Town Planner may refer an application for a Section 10.3.1 activity to the Planning Board for *Plenary ~~Site Plan~~Site Plan/Conditional Use Review* if it is determined that the proposed activity poses significant potential impacts due to highly constrained lot dimensions, off-site traffic, noise, drainage or lighting.

### 10.4 REVIEW AUTHORITY

#### 10.4.1. ADMINISTRATIVE ~~SITE PLAN~~SITE PLAN/CONDITIONAL USE REVIEW COMMITTEE

The Staff Review Committee shall consist of the Town Planner, Code Enforcement Officer, Public Works Director, and the Fire Chief and shall have the authority to review and approve or deny all *Administrative ~~Site Plan~~Site Plan/Conditional Use Review* applications. If Staff Review Committee is unable to agree on the action to be taken on an application, the Committee shall refer the application to the Planning Board, which shall then conduct the ~~site plan~~Site Plan/Conditional Use review. The applicant may request that the Planning Board rule directly on an Administrative ~~Site Plan~~Site Plan/Conditional Use application following the procedures outlined in Section 10.6.2 Administrative Review

#### 10.4.2. PLANNING BOARD

The Planning Board shall have the authority to review and act on all *Plenary ~~Site Plan~~Site Plan/Conditional Use Review* applications, and in consideration of said review may approve, approve with conditions, or deny all applications.

### 10.5 APPLICATION

All applications for *Administrative ~~Site Plan~~Site Plan/Conditional Use Review* and *Plenary ~~Site Plan~~Site Plan/Conditional Use Review* shall be submitted on forms available from the Planning Department along with all pertinent information, plans, drawings, reports, and specifications required by either the Staff Review Committee or the Planning Board. Specific submission requirements are to be provided as outlined below:

#### 10.5.1. ADMINISTRATIVE ~~SITE PLAN~~SITE PLAN/CONDITIONAL USE REVIEW APPLICATION REQUIREMENTS:

The applicant shall file all designated application fees, as determined by the Board of Selectmen, and provide four (4) copies of the application and relevant submissions as provided and specified by the Planning Department. Submissions shall include but not be limited to 1) proof of right title and interest in the subject property, 2) a scaled ~~Site Plan~~Site Plan/Conditional Use showing existing and proposed site features; 3) Stormwater and Soil Erosion Control Plan if applicable; 4) scaled building elevations and proposed sign layouts if applicable; 5) Property Boundary and/or Topographic Survey if applicable; 6) cost estimates of

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all proposed improvement, and 7) any other information deemed necessary by the Town Planner to make a reasonable and informed ruling on the proposed project.

**10.5.2. PLENARY ~~SITE PLAN~~SITE PLAN/CONDITIONAL USE REVIEW APPLICATION REQUIREMENTS**

The applicant shall file all designated application fees, as determined by the Board of Selectmen, and provide ten (10) copies of the following submission items:

1. A fully executed and signed *Plenary ~~Site Plan~~Site Plan/Conditional Use Review* application
2. Copy of property deed, option to purchase, or other documentation to demonstrate the applicant's right, title or interest in the property
3. Proposed ~~Site Plan~~Site Plan/Conditional Use, drawn at a scale not to exceed one inch equals forty feet (1" = 40') or at a scale otherwise required by the Town Planner. Said plan shall be sealed by a Professional Engineer, Landscape Architect, or a Surveyor licensed in the State of Maine, and containing the following information:
  - a. Property Boundary Survey signed & sealed by a Maine Licensed Land Surveyor, showing bearings and distances of the subject property boundary(s), topographic elevations at a contour interval of no more than two (2) feet, location and elevation of all existing and proposed structures, site features and site improvements.
  - b. Information Block containing location, address, Map-Block-Lot number(s) of the subject property, as recorded in the Town Assessor's Office, name and address of the applicant(s), and owner(s) if different;
  - c. Approval Block providing space for the signatures of Planning Board members;
  - d. The existing zone in which the property is located. In the event the property is divided by a zone line, the line shall be delineated and labeled on the ~~Site Plan~~Site Plan/Conditional Use;
  - e. Map scale, north arrow (True North), and date ~~Site Plan~~Site Plan/Conditional Use was prepared including the date of any subsequent revisions made to the plan;
  - f. Identification and location of all abutters to the applicant's property;
  - g. The dimensions and layout of all building and zoning setback lines;
  - h. Delineation of all existing and proposed public and private easements on or directly adjacent to the property;
  - i. Location, dimensions, and layout of all existing and proposed built elements, including buildings and structures, parking areas, driveways, Town/State roads, sidewalks, fences, walls, steps, piers and docks, patios, swimming pools, and signage;
  - j. Location of existing site features located on the property, including but not limited to existing streams, wetlands, drainage swales, tree lines, identification and location of specimen trees greater than eight inches (8") caliper, location of existing rock outcrops, and boundary of 100-year Flood Zone as defined by the FEMA Flood Insurance Rate Map for the Town of Arundel;
  - k. Location of existing and proposed utilities including overhead telephone poles and/or underground cables, public sewer and water lines, gate valves, fire hydrants, dumpsters or waste receptacles, private septic systems and water supply wells;
  - l. Specification, layout, and quantity of proposed landscaping plant materials;
  - m. Location, layout, and dimensions of all existing and proposed drainage facilities, accompanied by detailed drainage calculations signed and sealed by an Professional Engineer licensed in the State of Maine;
  - n. Location, specification, height and photometric data of existing and proposed exterior lighting;
  - o. Sight distances delineated on the ~~site plan~~site plan/conditional use for all driveway and street openings and all easements required to maintain such sight distances in perpetuity shall also be delineated on the plan;
  - p. Soil Erosion Control Plan showing location, quantity, and specifications of erosion control devices and strategies to be implemented to minimize on and off-site sedimentation.
4. **Cost estimates** for all proposed site improvements.

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5. **Building Plans** of all proposed structure(s) including interior layout, side, and front elevations drawn to a scale of not less than 1/4 inch to 1 foot.
6. **Schematic elevation of proposed signs**, drawn to a scale of not less than 3/4 inches to 1 foot, and illustrating sign layout, lettering, graphics and logos, materials, color, and proposed illumination.
7. **Additional Submittals:** In addition, the Planning Board may require any one or all of the additional impact studies and information to be submitted as part of the ~~Site Plan~~Site Plan/Conditional Use Review Application:
  - a. **Fiscal Impact Assessment:** Analyzing the projected fiscal impacts to the municipal service delivery system
  - b. **Traffic Impact Assessment:** Analyzing the potential trip generation created by the proposed project and its cumulative impact upon traffic capacity of servicing public highways and level of service performance at off-site intersections.
  - c. **Groundwater Study:** Analyzing the individual and cumulative impacts of the proposed project upon existing groundwater quality.
  - d. **Market Study:** Prepared by a qualified market research firm, and indicating the potential feasibility and projected success of a proposed use.
8. **Other Information:** Any other information requested by the Planning Board deemed necessary to make a reasonable and informed decision about the proposed project.

### **10.5.3. WAIVER OF SUBMISSION REQUIREMENTS:**

Specific submission requirements of Sections 10.5.1 and 10.5.2 may be waived by the reviewing authority if said authority rules that the required application submission will not yield any useful information given the nature and scope of the proposed activity or the existing character of the site.

## **10.6 ~~SITE PLAN~~SITE PLAN/CONDITIONAL USE REVIEW PROCEDURES**

**10.6.1 APPLICATION CLASSIFICATION:** The Town Planner shall be responsible for determining whether an application qualifies for Administrative or Plenary review.

**10.6.2 ADMINISTRATIVE ~~SITE PLAN~~SITE PLAN/CONDITIONAL USE REVIEW PROCEDURE:** The following procedures shall govern the Administrative ~~Site Plan~~Site Plan/Conditional Use Review process:

1. **Pre-Application Conference** The Pre-Application Conference can save the applicant time, effort, and can expedite the approval process. All applicants are advised to schedule a Pre-Application Conference with the Town Planner prior to submitting an Administrative ~~Site Plan~~Site Plan/Conditional Use Application. The Pre-Application Conference assists the applicant in determining the submission requirements necessary to provide a *complete application*, identifies potential conflicts with existing ordinances or land use policies, familiarizes the applicant with review procedures and approval criteria, and familiarizes the Planning Department with the project. No binding decisions shall be made by the staff at this meeting.
2. **Determination of a Complete Application:** Within ten (10) days after an application is classified as an *Administrative ~~Site Plan~~Site Plan/Conditional Use Review* Application by the Staff Review Committee, a determination shall be made whether the application is Complete and contains submission receipts of all relevant State and Federal permits, complete plan submissions as required by this Ordinance, and all relevant information necessary to make a reasonable and informed decision. Notification of this application shall be sent to all property owners within a one hundred (100) foot radius from the applicant's property line at least 7 days prior to the issuance of the final approval.
3. **Staff Review Committee Ruling:** Within thirty (30) days of ruling that the application is a *Complete Application*, the Staff Review Committee shall approve, approve with conditions, or deny the application based on criteria pursuant to Section 10.6.4 herein. Absent an extension under subparagraph (3) below, the application shall be denied if the Staff Review Committee does not act within the 30 days.
4. **Request for Extension:** The thirty (30) day period of subparagraph (2) above may be extended by

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agreement between the applicant and the Staff Review Committee or upon written request of the applicant in order to amend the application prior to the issuance of a decision. An extension granted upon request of the applicant shall not exceed 30 days and no more than one such extension shall be granted.

5. **Document Filing:** No Administrative Site PlanSite Plan/Conditional Use approval shall become effective until a record reproducible copy of the approved plan is signed by the Staff Review Committee and the applicant; all conditions of approval mandated are drafted on the record plan; all Peer Review fees (Section 10.8) have been paid, and Performance Assurances (Section 10.7) supplied to the Town.
6. **Planning Board Notification:** Any Administrative Site PlanSite Plan/Conditional Use approval or denial shall be communicated to the Planning Board at the next scheduled Planning Board meeting.

### **10.6.3. PLENARY SITE PLANSITE PLAN/CONDITIONAL USE REVIEW PROCEDURE**

1. **Sketch Plan Review:** Prior to submitting a formal Plenary Site PlanSite Plan/Conditional Use Application, all applicants are encouraged to present the Planning Board with a preliminary sketch plan of the proposed activity. This informal consultation will assist the applicant in determining the submission requirements necessary to provide a *complete application* and can identify site issues and constraints that the applicant should resolve prior to submission of the application. No binding decisions shall be made by the Planning Board at this meeting
2. **Determination of a Complete Application:** Applications will be reviewed for their classification and completeness at the next regularly-scheduled meeting of the Planning Board. The Planning Board shall designate the application as a *Complete Application* if it includes submission receipts of all relevant State and Federal permits, complete plan submissions as required by this Ordinance, and contains all relevant information necessary to make a reasonable and informed decision. Conversely, if the application is lacking data required by the Planning Board, the applicant shall provide the requested information before the application is designated as being *Complete*. Applications failing to be designated as a Complete Application within six (6) months from the date of submission to the Planning Board shall be denied by the Board.
3. **Public Hearing:** Within thirty (30) days of designating a Plenary Site PlanSite Plan/Conditional Use Review application as a *Complete Application*, the Planning Board shall conduct a Public Hearing, during which abutters to the proposed project and any other members of the public shall have an opportunity to express their opposition or support for the proposed project. Notification of this Public Hearing shall be sent to all Arundel property owners within a two-hundred (200) foot radius of the applicant's property line, a minimum of seven (7) days prior to the hearing. (*Amended June 13, 2018*)
4. **Site Walk:** At any time during the review of the application, the Planning Board may conduct a Site Walk. The Site Walk shall be open to the public and notification of the Site Walk shall be legally-posted on the Town website and on the Town Bulletin Board at least seven (7) days prior to the meeting. No formal action shall be taken by the Planning Board at any site walk
5. **Site PlanSite Plan/Conditional Use Review Ruling:** Within thirty (30) days of the Public Hearing or within sixty (60) days after designating an application a Complete Application, the Planning Board shall approve, approve with conditions, or deny the application based on the application's conformance with the applicable performance standards and regulations of the Zoning Ordinance.
6. **Request for Extension:** Applicants may submit a written request to the Planning Board for no more than two (2) thirty (30)-day extensions in order to amend the application prior to the issuance of a Plenary Site PlanSite Plan/Conditional Use Review Ruling.
7. **Document Filing:** No Plenary Site PlanSite Plan/Conditional Use approval shall become effective until a record reproducible copy of the approved plan is signed by the Planning Board members, all conditions of approval mandated by the Planning Board are drafted on the record plan, the record reproducible plan is filed with the Planning Department, all Peer Review fees (Section 10.8) have been paid, and Performance Assurances (Section 10.7) supplied to the Town.

**10.6.4. CRITERIA FOR APPROVAL**

All ~~Site Plan~~Site Plan/Conditional Use Review applications shall be evaluated, approved, approved with conditions, or denied based on the following findings of fact:

1. The proposed project conforms to all standards of the zoning district and meets or exceeds performance standards specified in Sections 5, 9, and 10 of this Ordinance;
2. The proposed project has received all applicable Federal and State Permits.
3. The proposed project does not unreasonably impact public safety and fire protection, and will not create a financial burden for the Town of Arundel in the provision of emergency services and law enforcement to the project site and the neighborhood;
4. The proposed project will not have an adverse impact upon the quality of surface or groundwater resources;
5. The project provides adequate stormwater management facilities to produce no additional peak runoff from the site during a 25-year storm event and will not have an undue impact on municipal stormwater facilities or downstream properties;
6. The proposed project will not have an adverse on-site and off-site impact upon existing vehicular and pedestrian circulation systems within the community or neighborhood;
7. The proposed project will not have an adverse impact upon environmental quality, critical wildlife habitats, marine resources, important cultural resources, or visual quality of the neighborhood, surrounding environs, or the community;
8. The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other nuisances that will adversely impact the quality of life of surrounding parcels.
9. The proposed project will not have a negative fiscal impact on municipal government.
- ~~9.10.~~ That the use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood.

**10.7 PERFORMANCE ASSURANCES**

To insure that the terms and conditions accompanying any issuance of an Administrative or Plenary ~~Site Plan~~Site Plan/Conditional Use Review approval are met pursuant all sections of this Zoning Ordinance, the applicant shall submit a fully- executed performance assurances pursuant to Sections 10.7.1 & 10.7.2 to the Planning Department prior to the issuance of a Building Permit, a Certificate of Occupancy, or the commencement of the approved activity:

**10.7.1. ELEMENTS OF PERFORMANCE ASSURANCE.**

Prior to granting final ~~site plan~~site plan/conditional use approval, the Staff Review Committee or the Planning Board shall determine the following elements of the Performance Assurance:

1. The Required Improvements, consisting of those improvements which are necessary to ensure compliance with the standards of this Ordinance and any conditions of approval;
2. The Construction Schedule, consisting of the date of the anticipated commencement of construction and the last date for completion of the Required Improvements;
3. The Performance Assurance Amount, consisting of the estimated cost of the Required Improvements, the estimated cost of the inspection of the Required Improvements by the Town, and a contingency allowance of fifteen percent (15%)



of the estimated cost of the Required Improvements.

**10.7.2. PERFORMANCE ASSURANCE INSTRUMENTS.**

Based upon the determinations made in Section 10.7.1 above, the Staff Review Committee or the Planning Board, whichever approves the ~~site plan~~site plan/conditional use, may require the applicant to guarantee completion of the Required Improvements by one or more of the following methods:

- 1. Escrow Agreement.** Delivery of the Performance Assurance Amount to the Town Planner in cash pursuant to an Escrow Agreement satisfactory in form and content of the Town Planner. The Escrow Agreement shall give the Town the right to withdraw from the Escrow Account without the applicant's consent if the applicant fails to complete the Required Improvements pursuant to the Construction Schedule. The Escrow Agreement may allow interim reductions in the Performance Assurance Amount as certain of the Required Improvements are completed, in increments of no less than \$2,500. Expiration

of the Escrow Agreement shall be at least 30 days later than the last date for completion of the Required Improvements.