



M E M O R A N D U M

TO: Chris Gerver, Chairperson and Planning Board

FROM: Dennis G. Lindsay, PE, Village Engineer
Jon D. Bodendorf, PE
Natalie D. Barber, EIT

RE: Rushmore Estate Farm & Winery – Seth Pulver
Site Plan, Special Permit, Ridge Preservation & ARB – **Discussion**
File No. 202-1-70 & 79; Memo No. 243-20-017

DATE: September 11, 2020

CC: Richard Golden, Esq., Kelly Naughton, Esq., Stuart Turner, AICP, Jonathan Lockman, AICP,
Lawrence Torro, PE (for applicant)

The following are our review comments regarding the referenced site plan and special permit application for a farm winery with tasting room on a 41.8 acre¹ parcel on Castleton Drive with access to Quaker Road via Icehouse Road (private road) and located in the R-1A Zone.

General – Applicant proposes to construct a vineyard on a portion of the existing Rushmore Estate and construct a new 4,000 square foot building to include 1,000 square feet for farm winery production and 3,000 square feet for a wine tasting area.

Background – This application was last considered at your meeting of March 6, 2019 at which time you rescinded a prior action on your intent to be Lead Agency under SEQRA and opted for an uncoordinated review of environmental impact so the ZBA could make their own findings and consider the requested variance for frontage on Route 32. The applicant received the requested area variance from the ZBA on August 14, 2019, with specific conditions for upgrading Icehouse Road, other offsite traffic improvements, agreements for access, restriction to traffic, and others. The ZBA approval requires the Planning Board consider the site plan and special permit and decide on the proposed application. If the degree of the variance is increased, the applicant is required to return to the ZBA. Furthermore, the ZBA approval requires the applicant seek approval from the Village Board and NYS DOT for signage at the various intersections near the project site and realignment of the intersection of Quaker Road and NYS Route 32. Finally, the ZBA recommends the Planning Board review and refer the application to the Village Board to consider designating Evan’s Drive as a one-way road (the appropriate procedure to address this recommendation should be reviewed with Counsel). The applicant has submitted a revised site plan for your consideration.

Moratorium – The Village Board of Trustees is considering the adoption of a 6-month building moratorium to allow it to review the Village’s Comprehensive Plan and related Zoning Code provisions. If adopted, the only projects that will be exempted are those that have completed SEQRA or those that are considered Type II and have held and closed their Public Hearing. While we believe you can proceed with the review of this application and complete all items necessary for an action, we do not believe you can take such until the moratorium (if adopted) is lifted by the Board of Trustees. We recommend you discuss this with Attorney Golden.

A) Materials Reviewed –

1. Correspondence from Lawrence Torro of Civil Tec Engineering + Surveying, dated August 26, 2020 requesting appearance before the Planning Board and describing material changes;
2. “Roadway Plan Proposed Intersection at Quaker Road and NYS Route 32” for Rushmore Estates Farm & Winery by Frederick P. Clark Associates, dated June 19, 2020.
3. Plans by Civil Tec Engineering & Surveying, PC, last revised August 25, 2020, as follows:

¹ Plan says 41.8 acres, application (dated 10/25/17) lists 39.1 acres, EAF (dated 12/11/17) refers to 49.13 acres – area should be clarified.

- a. Sheet 1 of 4 – “Overall Site Plan”
- b. Sheet 2 of 4 – “Site Plan” (North End of Property)
- c. Sheet 3 of 4 – “Site Plan” (South End of Property)
- d. Sheet 4 of 4 – “Profiles & Details”

B) Review of Submitted Materials – (Sections Repeated Where Relevant)

1. Zoning – Farm wineries are permitted in the R-1A Zone² with site plan and special permit by the Planning Board. The bulk and area requirements for farm wineries are included in the schedule of zoning district regulations [§310-39.1] and listed in a table on the applicant’s plan, sheet 1. Using these criteria we note the following:
 - The table on the plan indicates compliance with the bulk and area regulations³ for new facilities⁴– *plan complies (see footnotes for revisions)*.
 - The winery must possess a New York State license for a farm winery – *applicant to confirm compliance*.
 - The winery must have direct access to New York State Route 32 – *applicant received variance from ZBA with specific conditions (detailed comments below)*.
 - The wine making area is limited to 4,000 square feet and may include wine tasting – *plan indicates general compliance although details will need to be submitted*.
 - Where structures of a local or national historic significance are located on the site, any new structures must be, to the maximum extent practical, consistent with existing structures – *In our opinion, the site does include structures of at least a locally historic significance (Rushmore Estate). The applicant is proposing a structure but has not yet provided details. We recommend the architectural details be provided so you may confirm they are compatible with the existing area and structures.*
2. Site Plan – The materials submitted by the applicant have been revised for utilities, access and parking since their last appearance. Appended is a list of code requirements for the complete site plan [§310.45.1.]. The applicant will need to comply or request a waiver for any plan requirements not provided; the next plan submission should identify the requirements requested for waiver.
 - a) Layout and General Circulation – The applicant previously submitted a detailed traffic report. We defer to your traffic consultant for detailed review, but offer the following comments on parking and access:
 - The parking area has been relocated to the West of the proposed structure. It is not clear if the parking area will be gravel as originally proposed or paved; applicant to confirm. The plans should indicate the dimensions for stalls (9 x 18 min) and the width of the travel way.
 - The applicant now shows two driveways (one entrance and one exit) to the proposed building that run approximately parallel to the proposed vineyard area. The driveways are irregular in path and without additional detail on the map or explanation it is difficult to discern if this is for a rustic character, traffic calming, roadway impediments such as trees, landforms or other reasons. The drives impede on the designated vineyard area and connect to Icehouse Road in an area not proposed for improvement. The applicant should discuss the layout.

² The R1A Zone refers to permitted uses in the R3A Zone with exceptions. Category #14 refers to Farm Wineries which are permitted in the R1A Zone. Applicant should revise the bulk table to indicate R-1A zone.

³ The applicant has inadvertently indicated a rear yard requirement of 40-feet where 100-feet is required (plan still complies), provided dimension should be updated as building is proposed in a new location.

⁴ An existing one-story building at the North End of the property may have an existing setback non-conformity depending on use.

- Two properties (202-1-70 & 79), under common ownership, are proposed for development. It appears the lots are being viewed as one parcel for development purposes and, although not required, we recommend you and the applicant consider a lot merger. You may wish to discuss this with Counsel.
- We recommend you consider with your traffic consultant whether it would be appropriate to switch the ingress and egress locations from Ice House Road to the site to avoid interference with exiting and entering traffic, specifically making a left out of the property.
- The plan shows the drive as a gravel surface, the applicant should provide construction details. A gravel surface could add to the rustic character and help with runoff control but it would require routine maintenance to remain safe and passable which is important for ESO access and is recommended as a special permit condition. The width of each drive is 12-feet which is adequate for one-way traffic.
- Icehouse Road is noted as a private road. The applicant should provide details on ownership, rights of access and any agreement for maintenance. We have appended a copy of the resolution for the Rushmore Festival which has various restrictions and operational requirements for the road.
- Details of the road improvements should be provided, including materials, grading, drainage, etc. Widening the road is shown partially within an existing easement (see comment “g” below). The limits of the improvements should be confirmed (i.e. will widening occur past the ingress and egress locations.)
- Icehouse road extends through to Castleton Drive in the Brigadoon development. Improvements to this portion of the road are not proposed. The applicant should confirm the intent for this half of the road (existing to remain/barrier) and discuss how traffic will be confined only to Quaker Road. Condition of existing road from Castleton to be provided. While this route may be restricted from winery guests, the board may wish to refer this to the ESO’s for their needs and whether both routes will need to be maintained for emergency access.
- The following requirements have been paraphrased from the ZBA variance referenced above. These conditions need to be satisfied or amended by the ZBA:
 - Improvements to Icehouse Road shall include widening the road to 24-feet, macadam surfacing, two lane travel, graded horizontally and vertically to meet current Village specifications for a private road with footpaths or sidewalks installed in the residential portion of Icehouse Road.
 - Icehouse Road shall be designed for suitable access by emergency vehicles. The intersection of Icehouse Road at Quaker shall have a stop sign with suitable sight distances maintained for exiting traffic on to Quaker.
 - Access via Icehouse Road to Quaker by the six residential properties along this road shall be continued and memorialized by recorded easement.
 - Applicant shall file a Declaration of Covenants bringing the owner of the property to maintain Icehouse Road to Village private street standards and grant enforcement authority to the Village and any of the six property owners. (**NOTE** - We see this as an unusual condition and we are not sure how the ZBA intended it to function. We defer to Counsel on how this would be enforced.)

- Applicant shall apply to the Village Board and NYSDOT for MUTCD signage, if applicable, at intersections in the vicinity of the project.
- Applicant shall propose to realign the intersection of Quaker and NYS Route 32 to create a “T-Intersection”. (**NOTE** – A plan has been provided. We defer to your traffic consultant for comments on the same).
- As part of the applicant’s site plan, applicant shall present a plan for directional signage both on and off premises so as to direct the volume of anticipated traffic from the Icehouse Road/Quaker Road intersection directly to the Quaker Rd/NYS Rte. 32 intersection to avoid traffic along Evans Drive. (*Discuss with Counsel*)
- Applicant shall not allow large passenger style busses or tractor hauled trailers (18 wheel vehicles) to access premises via Icehouse Road (*Condition of Approval*).
- The ZBA suggests you recommend the Village Board consider designating Evan’s Road a one-way street if site plan is approved.
- If approved, Applicant’s information to public for directions shall be by Quaker Road and Route 32, with no mention of Evan’s Drive.

b) Utilities –

1. Water & Sewer – The applicant previously advised that public water and sewer would be provided. They now propose to develop a private well for water supply and to connect to municipal sewer. The applicant should show off-site wells and septic systems within the vicinity of the proposed project. We have the following comments:
 - a. Water – The applicant is proposing a new well and pump building. A new well for this application requires Department of Health approval for a “Transient non-community water supply”. Details for the well, building, and functionality of the water supply have not been provided. Based on the elevations shown and distance from the well to the proposed building, we anticipate the need for either a hydropneumatic system or storage tank to provide water supply with adequate pressure to the facility. Furthermore, the applicant will eventually need to prove water supply quantity and quality. We recognize the cost impact of developing a well at this stage of the approval process is costly, but should be proven prior to final plan approval. The applicant should advise if the vineyard will require irrigation and provide estimated usage. Details on the roadway surface to the well pump building after clearing should be provided.
 - b. Sewer – The applicant proposes connection to an existing sewer main. If not in a current taxing area for sewer, this connection may require municipal approvals. The proposed connection is approximately 1,450-ft long and is significant. The applicant should review the proposed operation of the building and consider odors and solids deposition within the lateral. If the sole source of wastewater is from restrooms, the issues noted above may occur. If there is some wash down or significant flush due to the wine production process, these problems may be avoided. The applicant should confirm it is the intent for this connection to remain private.
2. Stormwater/Erosion Control – The applicant will need to comply with DEC general permit requirements for construction activities (GP-0-20-001). The applicant should advise total disturbance and what additional impervious surfaces will be provided

(some already exist) so requirements under the MS4 obligations of the Village can be determined and provided. All proposed drainage improvements should be shown.

At this time, the applicant proposes a cross culvert at the entrance of Ice House Road from Quaker and connection to the existing Village drainage system. Comments from the Highway Department should be solicited. The catch basin grates should be bicycle safe (applicant to confirm) and ECO friendly type with DEC required stamping for draining to waterways.

The Orange County Department of Planning (DOP) provided a response, dated January 23, 2018, under GML 239 with a comment regarding steep slopes as follows:

It appears the proposed processing building/tasting room and accompanying parking lot may be in an area of the property with steep slopes. Developing slopes in excess of 15% can have a high environmental impact due to the potential or soil erosion during and after construction. We caution that any development that occurs be sensitive to the topography and that soil erosion prevention measures be strictly enforced.

Grading details have not been provided, but the applicants survey confirms the slopes referenced by the DOP. The applicant should provide details on grading and provide an erosion and sediment control plan. We note the location of the parking lot may require a significant cut or fill depending on the proposed layout.

- c) Landscaping & Lighting – The applicant should advise what lighting will be provided. If patrons will visit the site after dark, some safety lighting will be required in the area of the wine tasting and parking lot, and perhaps the access drive. The applicant has advised the winery will be open from approximately noon until 11p.m. You may wish to consider limiting lighting operations to the hours of operation as a part of your action. The applicant should also advise if any lighting is proposed along Icehouse Road.
- d) Signs – The applicant proposes a stop sign and bar at the intersection of Quaker and Ice House Road. The Planning Board should review the requirements of the ZBA action for directional signage as part of the proposed application.
- e) Architectural Review – We recommend you receive information on the farm winery and tasting structure (4,000 square feet) to confirm it is compatible with the surroundings and existing structures.
- f) Ridge Preservation – The proposed winery is located at elevation above 600 and the application is subject to Ridge Preservation criteria defined in the Code.
- g) ESO's – We recommend you refer this matter to your ESO's for comment.
- h) Easement – A copy of the metes and bounds description for the proposed easement associated with the access improvement should be provided. Any other restrictions, easements, etc. on the property and access drive should be identified by the applicant and provided for board counsel review.
- i) Miscellaneous –
 - The applicant should confirm the narrative distributed previously, describing hours of operation, year-round use, and anticipated special events, estimated number of users of these facilities, is unchanged.

- Loading areas and areas designated for refuse disposal and collection should be shown on the plan.
 - Icehouse Road will need to be maintained for access by patrons, emergency service vehicles, and others. Applicant's narrative, provided previously, says they will do this at their expense. You may wish to discuss with Attorney Golden what protections could be provided to ensure this public access road is maintained in a safe condition.
 - No grading information is provided. The applicant should advise what is proposed to convert this wooded area to a vineyard (clearing, leveling, use of existing topography, other?).
 - The Location Map on Sheet 1 should have a scale indicated.
3. SEQRA/EAF – The applicant previously submitted an EAF for you to consider when they sought the variance from the ZBA. They have revised their plan, albeit modestly, but have not submitted an updated EAF. We suggest the applicant review the prior EAF and revise as needed. We note the following comments (repeated from prior review) for the applicant and Board to consider in the advancement of SEQRA:
- Is there a substantial adverse change in traffic – This has been one of the primary concerns of the boards (planning and ZBA) and most supplemental material has dealt with this subject. We defer primarily to your traffic consultant regarding this consideration, but note the following:
 - road traffic/noise for normal use and events;
 - narrative discussion of number of participants does not appear to match parking limits (overflow parking; if any, not shown).
 - Clearing of large tree area – the applicant has advised that approximately 1-3 acres will be cleared for development; a large portion will be revegetated as a vineyard;
 - Substantial impact on threatened or endangered species – we note rattlesnakes are present in the area and this species is classified “threatened” by the DEC. The DEC previously considered impacts with the Rushmore (Brigadoon) subdivision and required mitigations that included a snake fence around the Rushmore property and distribution of information to home purchasers;
 - Impact on the quality of historical or neighborhood character – the applicant has acknowledged the presence of historically significant buildings in the vicinity of the proposed application and noted that the new 4,000 sf building will be “in alignment with the current design and architecture of the property”. You may want to clarify this further.

A Short Form EAF was previously submitted and we have the following comments:

- Applicant indicates the total acreage of this action is 41.83 acres and the total acreage owned or controlled by the applicant is 49.13 acres (Note: Application lists 39.1 acres). Applicant should confirm the acreage and the 7.3 acres outside the project area (assumed as residence).
- We recommend you consider the comments from your traffic consultant when considering the response to question 8 which indicates this will not substantially increase traffic above present levels. We note that the Rushmore Festival(s) in the 1990's, resulted in residents of Icehouse Road expressing concern over the increase in traffic due to the condition and capabilities of Icehouse Road. Those events were limited to 120 patrons.

Future Listing – A number of the items above are important to the full understanding of this application and have been repeated from prior memos to the board. We recommend the applicant provide the missing information on future

submissions or describe any conditions that prevent them from doing so. In this way, the application will not be extended unnecessarily.

C) Referrals Required

1. Woodbury Water & Sewer Department
2. Woodbury Highway Department
3. Woodbury Fire Department
4. Woodbury Ambulance
5. Orange County Dept. of Planning GML 239 – Response dated January 23, 2018.
6. Orange County Dept. of Planning GML 239 – Response dated February 2, 2018.
7. Village Board of Trustees
8. NYSDOT

Chapter 310. Zoning

Article VIII. Site Plan and Special Permit Review and Approval

§ 310-45. Regulations.

- A. Purpose. The purpose of this article is to standardize the procedure for the review of site plans and the requirements for site plan applications, regardless of district.
- B. Authorization; approval required.
 - (1) The Village Board hereby authorizes the Planning Board, pursuant to Village Law § 7-725-a, to review and approve, approve with modification or disapprove site plans, prepared as hereinafter set forth in this chapter, and, where provided in this chapter, the Planning Board is further authorized to issue special permits upon determining that the public health, safety and welfare shall be served and neighboring properties will not be injured. The procedure for a special permit shall be the same as a site plan. Whenever the Board of Appeals or Planning Board is required to issue a special permit for any use in this chapter, no action shall be taken by either Board on the application for a special permit until the Planning Board has reviewed the site plan and granted approval.
 - (2) Further, the Planning Board is authorized to implement its Architectural Review Board responsibilities, as provided in Chapter 8 of the Code of the Village of Woodbury, as part of the site plan review process.
- C. Applicability.
 - (1) In all districts, site plan approval by the Planning Board shall be required for:
 - (a) The erection or enlargement of all buildings in all districts other than one-family residences in R-3A, R-2A, R-1A and R-0.25A Districts, except that one-family residences shall be subject to site plan approval in flood hazard areas as defined on the Flood Insurance Rate Map.
 - (b) All uses of vacant land.
 - (c) Any change in use or intensity of use which will affect the characteristics of the site in terms of parking, loading, access, drainage, utilities or other municipal services.
 - (d) Any application for a special permit or exception.
 - (2) In any cases where an amendment of any such plan is proposed, the applicant must also secure the approval of the amendment by the Planning Board.

D. Objectives and design requirements. In reviewing site plans, consideration shall be given to the public health, safety and welfare; the comfort and convenience of the public in general and of the residents or users of the proposed development as well as of the immediate neighborhood; and appropriate conditions and safeguards as may be required to further the expressed intent of this chapter and the accomplishment of the following objectives:

- (1) That the site plan is in conformance with any relevant portions of the Comprehensive Plan of the Village.
- (2) That the design of all structures is compatible with that of surrounding structures. Compatibility shall be determined by a review of the proposed use of materials, scale, mass, height, color, texture, architectural style and the location of the structure or structures on the site.
- (3) That all proposed traffic accessways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; and not located too near street corners or other places of public assembly; and other similar safety considerations.
- (4) That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots, loading bays and building services.
- (5) That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is such as to enhance the character of the Village and is in character with that generally prevailing in the neighborhood.
- (6) That all existing trees over 12 inches in diameter, measured three feet above the base of the trunk, shall be retained to the maximum extent possible.
- (7) That all plazas and other paved areas intended for use by pedestrians utilize decorative pavements and plant materials so as to prevent the creation of vast expanses of pavement.
- (8) That all outdoor lighting is of such nature and so arranged as to preclude glare onto adjoining properties and streets.
- (9) That no sound from a public-address system should be audible on adjoining properties or on the adjacent street.
- (10) That all mechanical equipment necessary to operate the building's services, which equipment is located on the roof of a structure, shall be screened in a manner approved by the Planning Board.
- (11) That the drainage system and the internal water and sewer systems are adequate and that all wells and sewage treatment systems are in accordance with Village, state, federal and county standards.
- (12) That the site plan and building design accommodate the needs of the handicapped and are in conformance with the state standards for construction concerning the handicapped.
- (13) That the site plan and building design maximize the conservation of energy.

E.

Procedure. No certificate of occupancy may be issued for any building or use of land within the purview of this section unless the building is constructed or used or the land is developed or used in conformity with an approved site plan.

- (1) Presubmission.
 - (a) Prior to the submission of a formal site plan, the applicant shall meet in person with the Planning Board and/or its designated representative to discuss the proposed site plan in order to determine which of the subsequent requirements may be necessary in developing and submitting the required site plan.
 - (b) Upon findings by the Planning Board that, due to special conditions peculiar to a site, certain of the information normally required as part of the site plan is inappropriate or unnecessary or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the Board may vary or waive the provision of such information, as outlined in § 310-45l, provided that such variance or waiver will not have detrimental effects on the public health, safety or general welfare or have the effect of nullifying the intent and purpose of this chapter or the Official Map or Comprehensive Plan.
 - (2) Final submissions. At least 15 days in advance of the Planning Board meeting at which a site plan, or an amendment of it, is to be presented, 10 copies of the information enumerated herein must be submitted to the Secretary of the Planning Board along with a letter of application. The Code Enforcement Officer shall verify that the application is complete. The actual date of application is the Planning Board meeting at which a complete application is presented.
 - (3) Public hearing; decision. Where a completed application for review and approval of site plans or where an application for a special permit has been filed, the Planning Board shall fix a time, within 62 days from the date of an application for site plan approval or special permit, for the public hearing of such matter and give public notice thereof by publication in the official Village newspaper of such hearing at least five days prior to the date thereof and shall decide the same within 62 days after such hearing. The decision of the Planning Board shall immediately be filed in the office of the Village Clerk and a copy mailed to the applicant. By mutual consent, the time may be extended within which the decision is to be rendered by the Planning Board.
- F. Expiration of site plan approval. Final site plan approval shall expire one year from the date it is granted unless the applicant shall secure a building permit, site work permit and/or begin on-site work. If on-site work ceases for a period of more than six months, then the applicant shall be required to secure a renewal of the site plan approval from the Planning Board. In the event that final site plan approval expires, then the applicant shall be required to file a new application. The Planning Board may extend site plan approval for a reasonable period not to exceed one year where the circumstances are such that the applicant is unable to begin on-site work. If a governmental agency has imposed a moratorium that prevents the developer from either starting construction or continuing construction on the project, then the year or that portion of the year remaining as required by this section shall be suspended until the moratorium is removed.
- G. Special permit. Where the Planning Board is authorized to issue a special permit, the same procedure as site plan review shall be utilized, and said review may be carried out simultaneously with the site plan review.
- H.

Special permit renewal; waiver. The Planning Board is authorized to require as a condition to the issuance of a special permit that such special permit be renewed at a specified period after a public hearing. However, the Planning Board may waive such requirement where the circumstances do not require renewal.

I. Plan requirements.

- (1) The information which is to be submitted and which in total constitutes a site plan follows.
 - (a) All applications for site plan approval shall be accompanied by a site plan prepared, signed and sealed by a licensed professional engineer or a licensed land surveyor, which site plan shall be drawn to a scale of not more than 100 feet to the inch and shall show the following information:
 - [1] The identifying title and the name of the Village and county.
 - [2] The names and addresses of the record owners, developer and designer of the site plan.
 - [3] The number of acres within the proposed site and the location of property lines, existing buildings, watercourses and other essential features.
 - [4] The date, North point and written and graphic scale.
 - [5] The locations of any existing sewage disposal systems and locations and sizes of wells, water mains, culverts and drains on and immediately adjacent to the site.
 - [6] The locations, names and present widths of existing and proposed streets, highways, easements, curblines, alleys, parks and other proposed public open spaces and similar facts regarding adjacent property.
 - [7] The provisions of this chapter applicable to the site, any zoning district boundaries affecting the site and any proposed changes in this chapter as it affects the site.
 - [8] The locations and owners of all adjoining lands as shown on the latest tax records.
 - [9] Deed restrictions or covenants applying to the site.
 - [10] The widths and locations of any streets and other public ways or places shown upon the Official Map and the Comprehensive Plan, if any, within the site and the widths, locations, grades and street profiles of all streets or other public ways proposed by the applicant.
 - [11] Typical cross sections of the proposed grading, roadways, sidewalks and unusual topographic conditions. The location and access points to the site shall be shown, as well as the distances to the nearest intersecting street.
 - [12] The approximate boundaries of any area subject to flooding or stormwater overflows as shown on the Flood Hazard Boundary Maps for the Village of Woodbury or as determined by the project design engineer or the design surveyor or as documented by other studies performed by a qualified professional.
 - [13]

A list of all special improvement districts affecting the site and the boundaries of such districts within the site, if any.

- [14] The location of existing marshes, wooded areas, rock outcrops, wetlands, ponds, watercourses (seasonal or year-round), isolated trees with a diameter of 12 inches or more measured three feet above the base of the trunk and other significant existing features.
- [15] Contour lines at intervals of two feet, based on United States Geological Survey data, of existing grades and of proposed finished grades. A larger contour interval will be permitted on approval of the Village Engineer.
- [16] A metes-and-bounds description and map of the survey or site boundary, made and certified by a licensed land surveyor or a qualified licensed professional engineer, referenced to established Village reference points and related to the state system of plane coordinates established by Chapter 545 of the Laws of 1938.
- [17] The locations of uses and outlines of structures, drawn to scale, within 100 feet of any property line of the site.
- [18] Paved areas, sidewalks and vehicular access between the site and public streets.
- [19] The location of proposed buildings or structural improvements.
- [20] The location and design of all uses requiring structures, such as off-street parking and loading areas.
- [21] The location, direction, power and time of use for any proposed outdoor lighting or public-address systems.
- [22] The locations and plans for any outdoor signs.
- [23] Any proposed grading, screening and other landscaping, including types and locations of proposed trees. Where the property is located adjacent to a limited access highway, a buffer zone shall be shown on the site plan, the depth of which buffer zone and any appropriate tree plantings shall be at the discretion and approval of the Planning Board. The Planning Board may require that landscaping plans shall be prepared by a qualified licensed professional.
- [24] The source of water supply and the location of all proposed water lines, valves and hydrants and available fire protection.
- [25] Documentation of the quantity and quality of water based on samples taken by and tests submitted by a qualified laboratory under the review of the office of the Village Engineer as a condition of approval. Said condition shall be satisfied prior to map signing by the Chairman of the Planning Board.
- [26] Until a sanitary sewer system is available, the alternative means of treatment and disposal of sewage proposed, including the location and results of percolation and other tests to ascertain subsurface soil, rock and groundwater conditions and depth to groundwater. If a sanitary sewer system is available or proposed, the location of all proposed sewer lines and treatment plants and discharge points shall be shown.

- [27] The provisions for collecting and discharging storm drainage in the form of a drainage plan.
 - [28] The location of temporary markers adequate to locate and appraise the basic layout in the field. Unless an existing street intersection is shown, the distance along the street from one corner of the site to the nearest existing street intersection shall be shown.
 - [29] If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development.
 - [30] A suitable vicinity map, drawn to a scale of not over 400 feet to the inch, showing the relation of the proposed site to the adjacent properties and to the general surrounding area.
 - [31] Architectural drawings, illustrating building elevations and all exterior characteristics.
 - [32] Any other information deemed necessary for the Board to determine conformity of the site plan to the intent and regulations of the Woodbury Zoning Law and Comprehensive Plan.
 - [33] Stormwater pollution prevention plan. A stormwater pollution prevention plan consistent with the requirements of Articles I and II of Chapter **267** shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Article II of Chapter **267**. The approved site plan shall be consistent with the provisions of Chapter **267**.
- (2) The ingress and egress from state, county and Village roads shall be subject to the approval of the Planning Board; and where, in the opinion of the Planning Board, such ingress and egress shall create or add to the congestion or safety factors of a given road, the Planning Board shall have the right to deny to the applicant the use of such ingress or egress and may require the applicant to provide alternative ingress or egress to the site.

PROPOSED RESOLUTION FOR SITE PLAN AND SPECIAL PERMIT
FOR THE RUSHMORE FESTIVAL

WHEREAS, the applicant, Rushmore Festival, Inc., has applied for a renewal of a Special Permit for the use of the Rushmore property as a summer festival/dinner theater; the property is shown as Tax Map parcel 2-1-60.41, 61, 63, 67, 2.21, 2.22 and 4; and

WHEREAS, a public hearing on this application was convened on March 3, 1993, and closed on April 21, 1993.

WHEREAS, all procedures have been followed in compliance with the New York State Environmental Quality Review Act, and a Negative Declaration was adopted on June 3, 1992 and reaffirmed on May 5, 1993.

WHEREAS, the Planning Board has determined after said hearing that the Site Plan and Special permit will substantially serve the public convenience safety and welfare; will not be detrimental to the neighborhood or the residents thereof; and will not otherwise be detrimental to the public convenience or welfare, subject to compliance in full with conditions hereinafter imposed pursuant to Section 153-8.1.

NOW THEREFORE BE IT RESOLVED, that the Planning Board approves the renewal of said Special Permit and Site plan consisting of two sheets; sheet 1 of 2 titled Rushmore Festival, Parking and Traffic Plan last revised 1/20/93, and 2 of 2 Parking and Traffic Plan last revised 6/2/92 with the following conditions (conditions preceded by an asterisk apply to Special Permit);

1. *This Permit shall be of limited duration and scope. This Permit shall be effective beginning on June 3, 1993, and shall expire on July 4, 1993. Only those events and those activities listed within this Permit shall be permitted. Any events or activities not authorized by this Permit shall be prohibited.

2. *The following activities are authorized:

- a) Theater
- b) Musical concerts and/or dance performances
- c) Art and Sculpture Exhibit

Ancillary to these activities are the following:

- d) House, building, and grounds tours
- e) Food service (no on-site food preparation)

3. *The following events (at the dates and times indicated) are authorized:

The Rushmore Festival - 1993

PERFORMANCE SCHEDULE

<u>DATE AND TIME</u>	<u>EVENT</u>
Thursday, June 3rd 7:45 p.m.	Benefit: An Evening of American Music
Saturday, June 5th 7:45 p.m.	HOMESHOW: The Ballroom
Sunday, June 6th 7:45 p.m.	HOMESHOW: The Ballroom
Saturday, June 12th 4:15 p.m. 7:45 p.m.	THE ATLANTIC THEATER CO. NAKED ANGELS
Sunday, June 13th 4:15 p.m. 7:45 p.m.	HOGAR LATINO WORKSHOP HOME
Wednesday, June 16th 7:45 p.m.	"The Cherry Orchard"
Thursday, June 17th 7:45 p.m.	"The Cherry Orchard"
Friday, June 18th 7:45 p.m.	"The Cherry Orchard"
Saturday, June 19th 1:00 p.m. 7:45 p.m.	Chekov Workshop "The Cherry Orchard"
Sunday, June 20th 4:15 p.m. 7:45 p.m.	Chekov Workshop "The Cherry Orchard"
Wednesday, June 23rd 7:45 p.m.	Benefit: "The Cherry Orchard"
Thursday, June 24th 7:45 p.m.	"The Cherry Orchard"
Friday, June 25th 7:45 p.m.	"The Cherry Orchard"

The Rushmore Festival - 1993

PERFORMANCE SCHEDULE

<u>DATE AND TIME</u>	<u>EVENT</u>
Saturday, June 26th	
4:15 p.m.	Chekov Short Stories
7:45 p.m.	"The Cherry Orchard"
Sunday, June 27th	
4:15 p.m.	Lukas Foss Concertos
7:45 p.m.	"The Cherry Orchard"

4. *Art and sculptural exhibition shall be permitted from 12:00 P.M. - 6:00 P.M., on Saturday and Sunday from June 5, 1993 to July 4, 1993. Tours of the building and grounds may be held simultaneously with each of the above events.

5. *Entrance to all events shall to the greatest extent possible, be permitted by advance ticket sales. General admission on the day of each event shall, however, be allowed. Capacity shall, in any case, be limited to 120 public patrons. A sold out sign shall be posted prominently at the entrance at Quaker Road once capacity is reached to avoid potential traffic problems. Also, once an event is sold out and a sign is posted, one of the security guards shall be posted at the entrance at Quaker Road to turn away all persons except ticket holders.

6. *Public access to the site shall be limited to Quaker Road and the private drive from Quaker Road. No access shall be permitted from Forest Avenue except for emergency vehicles and residents of the property. A properly safety marked chain shall be maintained across Forest Avenue in two places, at the entrance to the site, and immediately to the south of the entry to the parking lot, in order to prevent patrons from using Forest Avenue.

7. *For indoor events, occupancy shall be limited to the number permitted by the New York State Fire Prevention and Building Code or certified by Woodbury Building Department and Fire Marshall.

8. * Performance activity on the site related to the summer festival shall cease by 11:00 P.M. on each day of operation.

9. *Because this use will constitute a place of public assembly, the Planning Board emphasizes by this condition the applicability of all requirements of the New York State Fire Prevention and Building Code including exit lights, exit location, and site lighting. No event may be conducted until the Town of Woodbury Building Department and Fire Marshall shall have certified

compliance with such code requirements; additionally exit location and exit lights shall be approved by the Fire Marshall.

10. *10 MPH speed limit signs shall be posted at the entrance to the access drive and along the access drive. Further, to reduce the potential for dust, a palliative approved by the Town Engineer shall be applied to the driveway in accordance with a schedule approved by the Town Engineer.
11. *Portable speed bumps shall be installed along the access drive at the beginning of the Festival and shall be removed within 24 hours following the final event. Location of speed bumps shall be as shown on the approved Parking and Traffic Plan (Sheet 1 of 2). Any relocation of these speed bumps shall be approved by the Town Engineer and Planner.
12. "Slow - Children" signs shall be posted along the access drive; as a minimum, signs shall be located (1) at the access drive entrance on Quaker Road; (2) at the entrance to the Rushmore property (facing exiting traffic); and (3) at the first roadway curve after entering Quaker Road.

13. Lighting to assist pedestrians shall be provided between the parking lot and the main house; said lighting shall not be visible beyond the property lines.

14. *Security personnel, equipped with walkie-talkies or other appropriate communications equipment, shall be posted along the access drive to assure safe movement of vehicles. As a minimum, three security persons shall be posted; one at the access drive cross road on the Rushmore property; one at the first curve in the access drive; and one at the entrance to the access drive off Quaker Road. Said security persons shall be at their posts from one hour before each performances until one half hour following the start of the performance. Following the performance, a security person shall drive the first car down the driveway and remain at the end until the last patron leaves. Other security persons shall remain at their posts at the end of the performance until the last patron leaves.

15. *Reflectors shall be provided along the side of the access drive and at "wide-outs" constructed during the Festival's 1992 season in order to clearly delineate the limits of the driveway and the location of the "wide-outs" which are to be utilized to expedite safe movement of two way traffic. To further clarify the path of

travel, overhanging branches and brush along the sides of the access drive shall be cleared to improve sight distances.

16. *Only bottled water shall be used for patrons.
17. *Noise from any site activities shall not be perceptible beyond the site boundaries.
18. *All bathrooms open to the public shall be clearly marked; those on the system that is not functioning shall be clearly marked "Not For Public Use/or Private Area" and locked.
19. *All septic tanks shall be inspected and pumped out if necessary; evidence of such work shall be submitted to the Building Department prior to the first performance.
20. *Portable toilets of the chemical type shall be made available if the operating septic system exhibits evidence of overloading or malfunction.
21. *All traffic signs shall be professionally prepared and manufactured with reflective paint. All traffic signs previously damaged shall be replaced prior to the initial

performance. Any signs damaged or destroyed during the Festival shall be repaired or replaced within 48 hours.

22. Parking stalls shall be marked on the split rail fence to insure maximum parking utilization in accordance with the approved parking plan.
23. *The applicant shall clear brush on the entrance drive to the corral parking lot to provide overflow parking that will not block the drive to the parking lot. Additionally, the applicant shall provide for additional overflow parking on the grassed areas near the crossroads and such overflow parking shall be used only if the parking lot is full.
24. *Since this is an area of public assembly and the safety of the public is paramount, the special permit shall be revocable should the Town of Woodbury Emergency Services Organizations (police, fire, and ambulance) advise the Building Department that the Rushmore Festival operations do not allow for adequate emergency services for the public.
25. *A Rushmore Festival staff person shall attend an on site telephone on each performance day. Such phone shall be staffed as a minimum from one hour prior to performances

to one hour following performances to receive information requests, complaints, and notification of emergencies. The telephone number shall be prominently displayed in all advertising and display material and shall be made available to all Town administrative and emergency service agencies and all residents along the private access drive.

26. *Buses utilized to transport attendees to the site shall be restricted to mini-buses (maximum 26 seats) and each such bus shall have a Rushmore Festival Staff person on it to guide the driver into the site.
27. *The Special Permit may be revoked if in the judgement of the Zoning Enforcement Officer (Building Inspector) there is a violation or violations of the Special Permit which threatens health, safety, or welfare.

In order to assure the proper and timely enforcement of all special permit conditions, in addition to the Building Department's routine inspections of the site, following procedure shall apply:

- A. Complaints relating to matters of imminent danger to life or property shall be reported to the Town of Woodbury Police (available 24 hours a day).

- B. During non-business hours, complaints relating to building or zoning or permit violations that are not an immediate threat to life and/or property shall be reported to the police who shall inform the Building Department immediately upon the commencement of the next business day. The Building Department shall take appropriate action to rectify the violation or issue an appropriate violation notice.
- C. During non-business hours complaints relating to building, zoning or permit violations that are a threat to life and/or property that are made to the Town of Woodbury Police shall be referred to the Building Inspector or his designated representative for immediate action.
- D. Normal police complaints relating to disorderly conduct, noise or criminal behavior shall be reported to the Town of Woodbury Police as per usual practice.
28. The access drive into the site shall be improved prior to the Festival opening to the extent that the surface is stable and that all ruts are filled and stable. The condition of the road surface shall be approved by the

Building Inspector prior to the first day of the Festival. The road shall be kept in such approved conditions for the duration of the Festival and shall be left in said improved condition at the close of the Festival. The applicant, Rushmore Festival, Inc., shall post a bond or letter of credit in an amount sufficient to assure that the road will be maintained and left in the agreed upon condition at the close of the Festival. Said bond or letter of credit amount shall be approved by the Town Engineer.

PROVIDED, HOWEVER, that the applicant shall submit all necessary copies of the plans to be signed, including mylars when required, to the Town of Woodbury Building Department, at least one week prior to the initial performance; and further

PROVIDED, that the applicant delivers proof, in writing, that all fees - engineering, planning, legal, and otherwise - in regard to the project have been fully paid.

A FAILURE to comply with any such conditions in a timely manner shall result, without further action, in a lapsing of this approval.

In Favor 6

Against 0

HOWARD LANGE, CHAIRMAN
TOWN OF WOODBURY PLANNING BOARD