



February 11, 2022

Sarah desJardins
Town of Hamburg Planning Department
6100 South Park Avenue
Hamburg, New York 14075

Re: Proposed Briercliff Multifamily Project - 0 Briercliff Drive
Town of Hamburg - File No. 10027.11

Dear Sarah:

This letter is being submitted on behalf of DATO Development LLC ("Project Sponsor") in connection with the proposed townhome project as most recently presented to the Planning Board during the informational session held on February 2nd.

During informational session held on February 2nd, documentation was submitted by residents in support of their position that the Project Site is required to consist of Permanent Open Space not be developed. Although I do not have a complete copy of the documentation that was submitted to the Planning Board in support of this position, I was provided with a color copy of a map attached hereto as Exhibit "1" that labels the Project Site as "9.16 AC Donated by DATO". The Project Site located at 0 Briercliff Drive [SBL No. 169.20-1-39] is owned by Briarwood Village Inc., which is Burke Family entity, and has not been previously donated or conveyed to the Town Hamburg as parkland.

The color map submitted by the residents references Section 230-21 of the Town's Subdivision Regulations titled "Park, active and passive recreation space". The standard in Section 230-21A of the Subdivision Regulations stating the required recreation area for a subdivision shall be 10% of the total acreage of the subdivision does not apply nor does the language in Section 230-21B of the Subdivision Regulations.¹ The proposed project does not consist of a residential subdivision subject to review pursuant to the Town's Subdivision Regulations.

I have reviewed documentation received from the Planning Department subsequent to the Planning Board meeting held on February 2nd consisting of the Composite PUD Map prepared by Nussbaumer & Clarke, Inc. as signed by former Planning Board Chairman Richard Crandell on behalf of the Planning Board and Edmund F. Burke on behalf of Briarwood Village Inc. on

¹ Section 230-21B of the Subdivision Regulation states as follows: "If the Planning Board determines that a given subdivision requires land for active or passive recreational purposes (upon recommendation from the Recreation Department or the Conservation Advisory Board), the character and location of such land reserved for recreational purposes shall be suitable for this use. Lands that are undevelopable, such as wetlands and their buffers, steep slope areas, required stream setbacks, etc. shall not count towards the ten-percent criteria, but can be included in these passive recreation areas" do not apply to the proposed project since it does not consist of a proposed residential subdivision comprised of detached single-family homes on individual lots."

November 19, 2003; the Existing and Proposed Open Space Plan prepared by Nussbaumer & Clarke, Inc. dated July of 1992; and Open Space Analysis of the Proposed Hamburg Professional Center within the Brierwood Planned Unit Development Report prepared by Nussbaumer & Clarke, Inc. dated June 30, 1992. Copies of the Composite PUD Map and the Proposed Open Space Plan are attached as Exhibits “2” and “3”.

The controlling document with respect to the position asserted by residents that spoke during the informational meeting held on February 2nd that the Project Site must consist undeveloped Permanent Open Space is the Composite PUD Map prepared by Nussbaumer & Clarke, Inc. as signed by former Planning Board Chairman Richard Crandell on behalf of the Planning Board and Edmund F. Burke on behalf of Briarwood Village Inc. on November 19, 2003. The Composite PUD Map labels the Project Site as “Future Senior Housing” and such does not support the assertion that the Project Site consists of required Permanent Open Space.

The Existing and Proposed Open Space Plan prepared by Nussbaumer & Clarke, Inc. dated July of 1992 depicts 6.25 acres of the Project Site as consisting of two (2) large apartment buildings and the contiguous property including a portion of the Project Site as 6.62 acres of greenspace including a tot lot playground. The 1992 Existing and Proposed Open Space Plan was superseded by the Composite PUD Map prepared by Nussbaumer & Clarke, Inc. signed by former Planning Board Chairman Richard Crandell on behalf of the Planning Board on November 19, 2003. The Open Space Analysis Report of the Proposed Hamburg Professional Center within the Brierwood Planned Unit Development Report prepared by Nussbaumer & Clarke, Inc. dated June 30, 1992 is not relevant with respect to the Project Site since its purpose was to evaluate open space within the designated Hamburg Professional Center portion of the Brierwood Planned Unit Development, which does not include the Project Site.

In recognition of the location of the Project Site in close proximity to existing homes fronting on Briercliff Drive and the history of the previously proposed apartment project, the Project Sponsor has deliberately proposed a project consisting exclusively of two-story attached townhomes with attached garages for sale even though the Project Site would be more valuable if developed as multifamily units for lease, a use that would be permitted by the existing PUD zoning classification.² A copy of the most recently updated Site Plan [Drawing C-100] depicting the layout of the proposed project as presented to the Planning Board during the informational session held on February 2nd is attached as Exhibit “4”.

It is important to mention that Site Plan review process for the proposed project will require the submission and approval of a Landscape Plan. The Project Sponsor welcomes the opportunity to engage in discussions with adjacent property owners regarding landscaping and screening during the site review process.

Please feel free to contact me at 510-4338 or via e-mail at shopkins@hsmlegal.com if you have any questions regarding this letter or the status of the proposed multifamily project.

² NRP Group proposed a subsidized apartment project on the Project Site consisting of 72 units and 154 parking spaces in 2010 and the previously proposed project was not well received by residents. The previously proposed project was withdrawn by NPR Group prior to a site plan decision being issued by the Planning Board.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC



Sean W. Hopkins, Esq.

cc: Members of the Planning Board
Drew Reilly
Jennifer Puglisi, Esq.
Don Grundtisch [Via e-mail]
Patty Michalek [Via e-mail]
David Burke, DATO Development, LLC
Brian Burke, DATO Development, LLC
Christopher Wood, P.E, Carmina Wood Morris DPC

Exhibit 1



0.43 - Playground
0.36 - Overlook Park
5.11 - Amdsell & Heart Trail
3.38 - Small Pond area
0.25 - Cloverbank entrance
3.12 - Wetland Woods
+ 9.22 - Large Pond / woods
21.87 ACRES Greenspace
- 0.85 - Small pond
- 3.12 - Wetland Woods
- 1.85 - Large Pond
17.06 CURRENT 2022 Greenspace
9.16 AC. Donated by DATO
26.22 ACRES Greenspace (-1.84ac)

Town Code § 230-21 – Recreation Space

Lands that are undevelopable, such as **WETLANDS** and their buffers, steep slope areas, required stream setbacks, etc. **SHALL NOT** count towards the ten-percent criteria, but can be included in these passive recreation areas.

☆ 0 BRIERCLIFF DR

SBL: 169.20-1-39
Municipality: Hamburg
Owner: BRIARWOOD VILLAGE INC.
Dimensions: 0x0
Acreage: 9.1588 acres
Property Class: R - Rural vac

★ 0 CHRISTOPHER BLVD

SBL: 181.07-9-59
Municipality: Hamburg
Owner: BRIERCLIFF HOMEOWNERS ASSOC
Dimensions: 194.53x108.84
Acreage: 0.4348 acres
Property Class: R - Res vac land

★ 0 CHRISTOPHER BLVD

SBL: 181.08-2-31
Municipality: Hamburg
Owner: BRIERCLIFF HOMEOWNERS ASSOC
Dimensions: 418x30
Acreage: 0.3635 acres
Property Class: R - Res vac land

★ 0 BRIERCLIFF DR

SBL: 181.07-8-42
Municipality: Hamburg
Owner: BRIERCLIFF HOMEOWNERS ASSOC
Dimensions: 0x0
Acreage: 5.1096 acres
Property Class: R - Res vac land

★ 0 BRIERCLIFF DR

SBL: 181.07-8-60.1
Municipality: Hamburg
Owner: BRIERCLIFF HOMEOWNERS ASSOC
Dimensions: 0x0
Acreage: 3.3792 acres
Property Class: R - Rural vac

★ 0 CLOVERBANK RD

SBL: 169.20-1-9
Municipality: Hamburg
Owner: BRIARWOOD VILLAGE INC
Dimensions: 50.08x290.4
Acreage: 0.2519 acres
Property Class: R - Res vac land

★ 0 CLOVERBANK RD

SBL: 181.08-1-77
Municipality: Hamburg
Owner: BURKE DEV LLC
Dimensions: 0x0
Acreage: 3.1027 acres
Property Class: R - Res vac land

★ 0 BRIERCLIFF DR

SBL: 181.07-9-21.1
Municipality: Hamburg
Owner: BRIERCLIFF HOMEOWNERS ASSOC
Dimensions: 0x0
Acreage: 9.22 acres
Property Class: R - Rural vac



Exhibit 2



CERTIFICATE OF APPROVAL BY
TOWN OF HAMBURG PLANNING BOARD

OWNER'S CERTIFICATION

THE OWNER OF LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED HERETO CERTIFIES THAT ALL STATE, TOWN AND COUNTY TAXES AND ALL OTHER TAXES DUE ON SAID

DATE: _____
BRIERWOOD VILLAGE, INC.

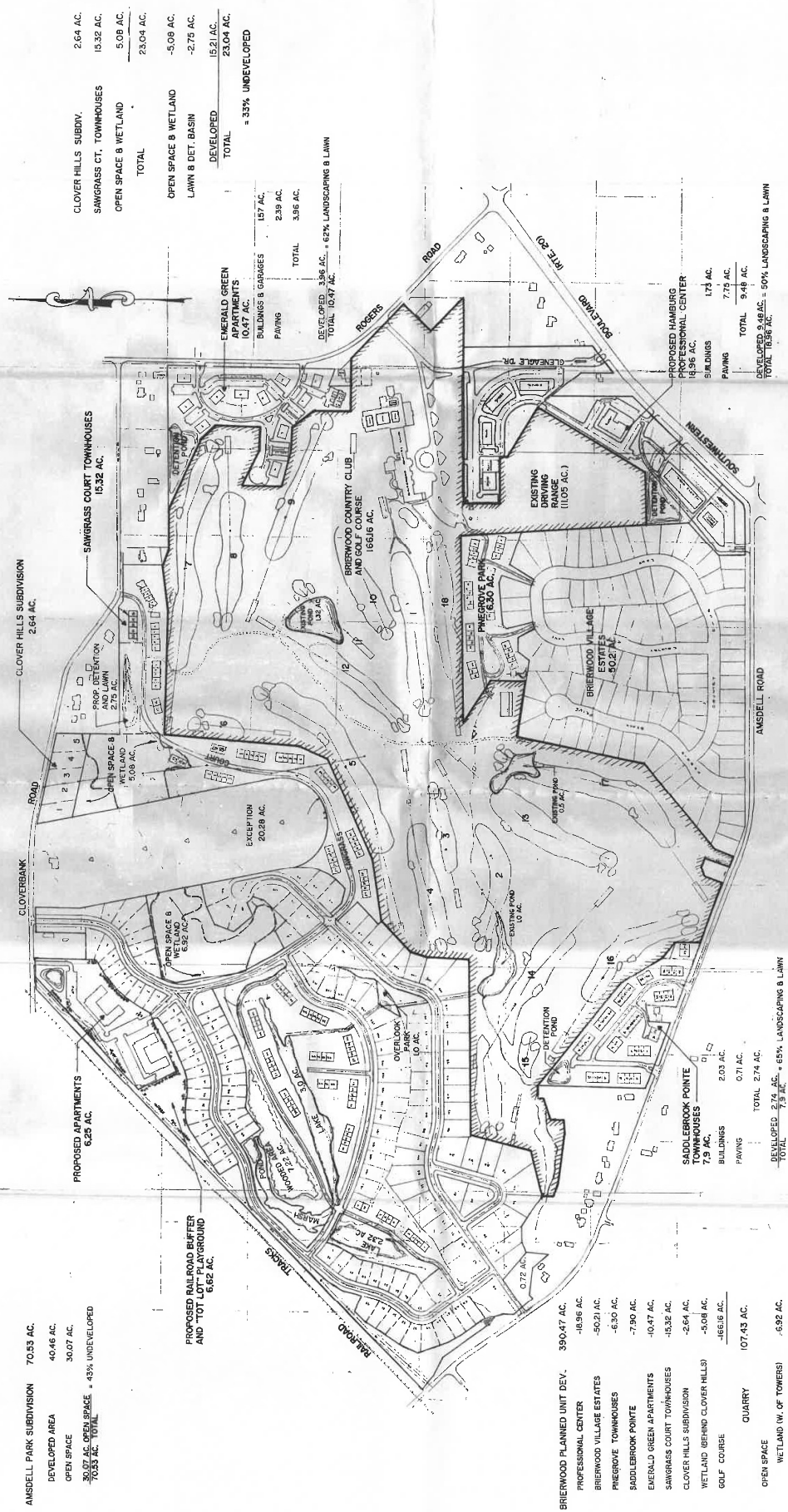
DATE: 11/19/03

Map Cover	Subdivision Name	Homeowners' Association	Migrated by
2546	Briarwood Estates	Briarwood Homeowners' Association	Briarwood Association Contact: Chris Reich
2566	Pinegrove Townhouses	Pinegrove Park Homeowners' Association	Pinegrove Park Management Contact: John A. Loo Rochester, NY 14601
2607	Saddlebrook Points	Saddlebrook Pointe Homeowners' Association	Followed Management Unit of Arden 46 Convent, NY 14256
2624	Clayton Hills	Saddlebrook Homeowners' Association	
2786	Saugras Part 1-Phase 1	Saugras Homeowners' Association	
2834	Saugras Part 2	Saugras Homeowners' Association	
3000	Saugras Part 3	Saugras Homeowners' Association	
3023	Saddlebrook Park-Part 1	Briercliff Homeowners' Association Inc.	
3026	Saddlebrook Park-Part 2	Briercliff Homeowners' Association Inc.	
3053	Briercliff Subdivision-Part 1	Briercliff Homeowners' Association Inc.	
3100	Briercliff Subdivision-Part 2	Briercliff Homeowners' Association Inc.	
3145	Briercliff Canyon Subdivision	Briercliff Homeowners' Association Inc.	

Emerald Green Apartments.....	private.....	Burke Brothers Construction S. 5500 Southwestern Blvd
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Exhibit 3



CLOVERBANK SUBDIVISION

DEVELOPED AREA	70.53 AC.
OPEN SPACE	40.46 AC.
30.07 AC. OPEN SPACE	43% UNDEVELOPED
TOTAL	110.99 AC.

CLOVER HILLS SUBDIVISION

DEVELOPED	2.64 AC.
OPEN SPACE & WETLAND	15.32 AC.
TOTAL	17.96 AC.

PROPOSED RAILROAD BUFFER AND TOT LOT PLAYGROUND

DEVELOPED	6.62 AC.
OPEN SPACE	5.09 AC.
TOTAL	11.71 AC.

EMERALD GREEN PARK

DEVELOPED	10.47 AC.
OPEN SPACE	15.21 AC.
TOTAL	25.68 AC.

BRIARWOOD COUNTRY CLUB AND GOLF COURSE

DEVELOPED	15.21 AC.
OPEN SPACE	23.04 AC.
TOTAL	38.25 AC.

PROPOSED HAMBURG PROFESSIONAL CENTER

DEVELOPED	18.96 AC.
OPEN SPACE	1.73 AC.
TOTAL	20.69 AC.

BRIARWOOD VILLAGE ESTATES

DEVELOPED	18.96 AC.
OPEN SPACE	1.73 AC.
TOTAL	20.69 AC.

SADDLEBROOK POINT TOWNHOUSES

DEVELOPED	7.9 AC.
OPEN SPACE	0.71 AC.
TOTAL	8.61 AC.

PROPOSED APARTMENTS

DEVELOPED	6.62 AC.
OPEN SPACE	5.09 AC.
TOTAL	11.71 AC.

QUARRY

DEVELOPED	107.43 AC.
OPEN SPACE	6.92 AC.
TOTAL	114.35 AC.

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UNAUTHORIZED ALTERATION OF THIS PLAN IS PROHIBITED. ANY VIOLATION OF THIS PROVISION IS A VIOLATION OF THE STATE EDUCATION LAW.

NUSSBAUMER & CLARKE, INC.
CONSULTING ENGINEERS & SURVEYORS
BUFFALO, NY
OSWEGO, NY

EXISTING AND PROPOSED OPEN SPACE
BRIARWOOD PLANNED UNIT DEVELOPMENT
EXHIBIT 2

DESIGNED BY: AS / WA
CHECKED BY: DLP
DATE: JULY, 1992
SCALE: 3/4"=200.0'
JOB NO.: 92-413
REPORT NO.:
DRAWING NO.: 92-413-1

REVISIONS
NO. BY DATE
1 BY 1/1/92

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NUSSBAUMER & CLARKE, INC.
CONSULTING ENGINEERS & SURVEYORS
BUFFALO, NY
OSWEGO, NY

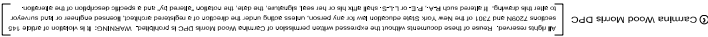
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Exhibit 4



⑥ Carmine Wood Morris DPC

