



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 2<sup>nd</sup>.

During informational session held on February 2<sup>nd</sup>, 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 of 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.<sup>1</sup> 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 2<sup>nd</sup> 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

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<sup>1</sup> 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.”

**Correspondence to Sarah desJardins**

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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 2<sup>nd</sup> 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.<sup>2</sup> 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 2<sup>nd</sup> 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](mailto:shopkins@hsmlegal.com) if you have any questions regarding this letter or the status of the proposed multifamily project.

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<sup>2</sup> 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 NRP 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

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# Exhibit 1

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**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 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: 59.08x290.4  
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: 9.1588 acres  
Property Class: R - Rural vac



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## **Exhibit 2**

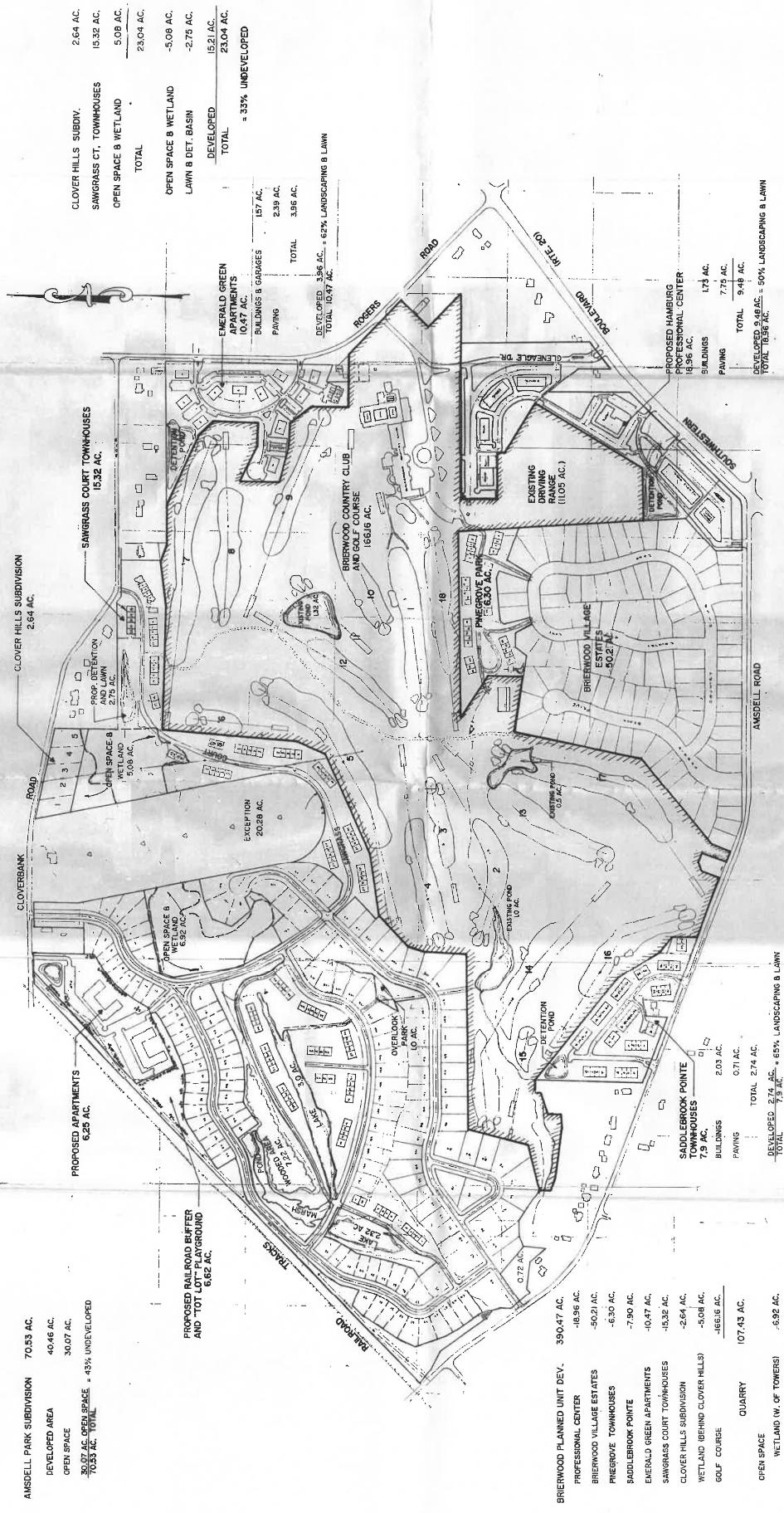
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## Exhibit 3

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SHEET NO. 1 OF 1		EXISTING AND PROPOSED OPEN SPACE	
		BRIERWOOD PLANNED UNIT DEVELOPMENT	
NUSSBAUMER & CLARKE, INC.		EXHIBIT 2	
CONSULTING ENGINEERS & SURVEYORS			
OSWEGO, NY			
BUFFALO, NY			
DRAWN BY: D.L.			
CHECKED BY: W.W.A.			
DRAWN BY: W.W.A.			
CHECKED BY: D.L.			
DATE: 1/15/2000			
SCALE: 3/4" = 100'0"			
JOB NO. 92-413		REF ID: NO.	
DRAWING NO. C-92-413-1			
CERTIFICATE NO. _____			
CITY OF OSWEGO, NEW YORK			
STATE OF NEW YORK			
LAW			
UNAUTHORIZED ALTERATION OR ADDITION TO THIS DRAWING IS A CRIMINAL OFFENSE PENALTY: \$250.00 TO \$2500.00 PER DAY PER OFFENSE LAW			

227.08 AC. OPEN SPACE  
377.43 AC. TOTAL QUARRY AREA = 25% OPEN SPACE

A circular logo with a compass rose design. The outer ring contains the text "American Consulting Engineers Council Member" at the top and "Supporting EnviroVenco in Expanding" at the bottom. The inner circle features a compass rose with the words "N", "S", "E", and "W" indicating cardinal directions.



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## **Exhibit 4**

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