

**TOWNSHIP OF MILLBURN
RESOLUTION 25-048**

**RESOLUTION "UNDER PROTEST" COMMITTING TO DEPARTMENT OF COMMUNITY AFFAIRS'S FOURTH ROUND
AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AS MODIFIED**

WHEREAS, on March 20, 2024, Governor Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA"); and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to produce non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Township of Millburn's (the "Township") Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 0 units and a Prospective Need or New Construction Obligation of 555 units; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; and

WHEREAS, currently pursuant to N.J.S.A. 52:27D-304.3, a municipality's average allocation factor is comprised of the equalized nonresidential factor, income capacity factor, and land capacity factor and shall be averaged to yield the municipality's average allocation factor, and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments as well as durational adjustments; and

WHEREAS, the DCA has released a Geographic Information Systems spatial data representation of the Land Capacity Analysis for P.L. 2024, c.2 containing the Vacant and Developable land information that serves as the basis for calculating the land capacity factor; and

WHEREAS, the Township has reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development; and

WHEREAS, based on the foregoing, the Township relies on the DCA calculations of Township's fair share obligations as modified herein to account for Township's review of the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development, and as further set forth in detail and explained in the attached memo prepared by Topology, the Township's affordable housing planner, and the Township seeks to commit to provide its fair share of 0 units present need and 522 units prospective need, subject to any vacant land and/or durational adjustments it may seek as part of the Housing Plan element and Fair Share Plan element it subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Township reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Township also reserves the right to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Township reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Prospective Need Obligation should be lower than described herein; and

WHEREAS, in light of the above, the Township Council finds that it is in the best interest of the Township to commit to the modified present need and prospective need Fourth Round affordable housing fair share numbers set forth herein, subject to the reservations set forth herein; and

WHEREAS, in accordance with AOC Directive #14-24 dated December 13, 2024, the Township Council finds that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of the Township to direct the filing of an action in the form of a declaratory judgment complaint within 48 hours after adoption of the within resolution of fair share obligations, or by February 3, 2025, whichever is sooner;

NOW, THEREFORE, BE IT RESOLVED on this 21st day of January, 2025 by the Mayor and the Township Committee of

the Township of Millburn, County of Essex, State of New Jersey as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The Township hereby commits to DCA's Round 4 Present Need Obligation of 0 units and a modification of the DCA's Round 4 Prospective Need Obligation of 555 units to 522 units, as briefly explained above and in greater detail in the attached memo from Topology, the Township's affordable housing planner, and subject to all reservations of rights set forth above.
3. The Township hereby directs its Township Attorney to file a declaratory judgment complaint in Essex County within 48 hours after adoption of the within resolution and attaching this resolution as an exhibit with the attached memo.
4. The Township authorizes its Township Attorney to submit and/or file the within resolution with attached memo with the Program or any other such entity as may be determined to be appropriate.
5. This resolution shall take effect immediately, according to law.

Adopted by Township Committee on January 21, 2025

Resolution 25-048

I, Christine A. Gatti, Municipal Clerk of the Township of Millburn, do hereby certify this document to be a true copy of the original which is on file in my office.

Date: 1/22/2025


Christine A. Gatti, Municipal Clerk
Township of Millburn

Exhibit "A" – Resolution 25-048



MEMORANDUM

Date: January 16, 2025
 To: Township of Millburn
 From: Graham Petto, P.P., AICP, Principal

**SUBJECT: FOURTH ROUND AFFORDABLE HOUSING
 ASSESSMENT OF DCA NUMBER**

The purpose of this memorandum is to provide an assessment of the non-binding calculations of the Township of Millburn's Prospective Need Obligation for the Fourth Round of Affordable Housing, published by the NJ Department of Community Affairs. The non-binding calculations were published by the DCA on October 20, 2024, with supplemental data releases provided through November 23, 2024, with the publication of the Land Capacity Analysis GIS Composite Layer.

Under the prepared calculations, the DCA has presented a non-binding prospective need obligation for the Township of Millburn of 555 units. The following assessment reviews the component data of the DCA calculation methodology with localized data to either confirm or revise the figures presented by DCA.

Based upon the analysis outlined in this memorandum, and with consideration given to the DCA Report, in accordance with N.J.S.A. 52:270-304.1, -304.2 and -304.3 of P.L. 2024, c.2 and the 2018 Decision, Topology recommends the Township of Millburn adopt a binding resolution committing to a Fourth Round Prospective Need Obligation of 522 units before taking into consideration any further credits, bonus credits, and/or adjustments as permitted by law.

I. Land Capacity Factor Assessment

- A. The Land Capacity Factor is calculated pursuant to N.J.S.A. 52:270-304.3.C.4, and is determined by estimating the area of developable land within the municipality's boundaries, and regional boundaries, which may accommodate development. The DCA conducted the analysis using Land Use / Land Cover data from the NJ DEP, MOD-N Property Tax Data from the Dept. of Treasury, and construction permit data from the DCA. The DCA calculations of land that may accommodate development exclude lands subject to development limitations, including open space, preserved farmland, category one waterways and wetland buffers, steep slopes and open waters. DCA preserved all areas that remained that were greater than 2,500 SF in size, under the assumption that an area of twenty-five feet by 100 feet may be considered developable.
- B. Under the analysis, the DCA estimates that the Township of Millburn presently has 24.799 acres of land that may accommodate development. This represents 0.46% of the amount of developable land across the entire Region 2, which encompasses Essex, Morris, Union, and Warren Counties.
- C. To assess the Land Capacity Factor, Topology extracted the resultant Land Capacity Analysis GIS Composite Layer and overlaid the file with the parcels for the Township of Millburn, reviewing the ownership, existing development and configuration of developable land within these parcels. Based upon this parcel-by-parcel review, Topology estimates that only 8.433 acres of the 24.799 acres calculated by DCA are not in fact developable. A parcel-by-parcel summary is provided below:

TOPOLOGY.

60 Union Street #1N
 Newark, New Jersey 07105

Phone: 973 370 3000
 Email: hello@topology.is
 Website: topology.is



D. Properties Not Available for Development-16.358 Acres

BLOCK	LOT	PROPERTY LOCATION	PROP CLASS	OWNER	DCA DEVELOPABLE ACRES	NOTES
1005	9	326 MAIN SIREET	I	EAAP, LLC	0.05922	Not Developable - Undersized 31' by 154'
1207	19	ESSEX SIREET REAR	SA	CONRAIL - N.J. IRANSIT	0.03300	Rail Right-of-Way. Too small to be mapped.
1207	9	345 ESSEX STREET	15C	TOWNSHIPOF MILLBURN	0.69994	Township Police/Fire Depts. Poorly configured developable area, unable to support development
1602	3	I STATION PLAZA	15C	TOWNSHIPOF MILLBURN	0.16367	Short Hills Train Station Parking
1902	1	90 CHATHAM ROAD	15C	TOWNSHIPOF MILLBURN	0.17226	Undevelopable - Area configuration not suitable
2002	28	325 TAYLOR ROAD SOUTH	15A	BOARD OF EDUCATION	0.00075	Public School Toosmall to be mapped.
2106	1	91 CHATHAM ROAD	15C	TOWNSHIPOF MILLBURN	0.24437	Undevelopable - Abuts NJ Transit ROW, area configuration not suitable
2106	2	91 CHATHAM ROAD	15C	TOWNSHIPOF MILLBURN	0.20805	Undevelopable - Abuts NJ Transit ROW, area configuration not suitable
2106	3	CHATHAM ROAD	SA	CONRAIL - N.J. IRANSIT	0.00033	Rail Right-of-Way. Too small to be mapped.
2107	1	69 CHATHAM ROAD	15C	TOWNSHIPOF MILLBURN	0.18988	Undevelopable - Abuts NJ Transit ROW, area configuration not suitable
2107	2	69 CHATHAM ROAD	15C	TOWNSHIPOF MILLBURN	0.18096	Undevelopable - Abuts NJ Transit ROW, area configuration not suitable
2107	3	CHATHAM ROAD	SA	CONRAIL - N.J. IRANSIT	0.00023	Rail Right-of-Way. Too small to be mapped.
3503	26	97 HEMLOCK ROAD	I	26-3503 REALTY ASSOC.LLC /B.MAHR	0.08158	Inaccessible - rear of site, constrained access
3605	30	140 WHITE OAK RIDGE ROAD	15D	CHURCH OF JESUS CHRIST %TAXDN.	1.20623	Site developed with an existing House of Worship and accessory parking area.
4306	9	80 WINTHROP ROAD R	15C	TOWNSHIPOF MILLBURN	0.60939	No public road access
4407	19	1025 SOUTH ORANGE AVENUE	I	B'NAI JESHURUN	4.31919	Site developed with an existing House of Worship and accessory parking area.
4407	2	42 EXETER ROAD	2	SKOLNICK, SHELDON & GREYAK	0.00434	Existing Residential House
4407	20	42 EXETER ROAD R	15C	TOWNSHIPOF MILLBURN	0.21707	Inaccessible - site constrained with insufficient width to support road access



BLOCK	LOT	PROPERTY LOCATION	PROP CLASS	OWNER	DCA DEVELOPABLE ACRES	NOTES
4905	16	71 CAYUGA WAY	2	YEE, MAGNOLIAS. & VINCENT W.	0.00004	Existing House. Developable area is too small to be mapped.
5005	16	COUNIRY DAY DRIVE	1	S.H.COUNIRY DAY SCHOOL/ PINGRY	7.84168	Site developed with existing Private School and accessory parking areas, fields and other features.
612	8	800 RIDGEWOOD ROAD	15C	TOWNSHIP OF MILLBURN	0.12600	Not Developable. The lot is entirely within the 100- and 500-year FEMA Flood Zones, where most of the property and identified area are within the 100-year floodplain.
Total Acres Not Available for Development					16.358	

E. Given these conditions of existing properties, Topology estimates that the amount of developable land within the Township of Millburn should be revised to 8.433 Acres. This would represent a reduction of the Land Capacity Factor from 0.46% to 0.16% within Region 2.

II. Equalized Nonresidential Valuation Assessment

A. The Equalized Nonresidential Valuation Factor is calculated pursuant N.J.S.A. 52:27D-304.3.C2 and is determined by calculated the changes in nonresidential property valuations in the municipality, since the beginning of the gap period in 1999. The change in the municipality's nonresidential valuations is divided by the regional total change in nonresidential valuations to determine the municipality's share of the regional total change, which is the resulting factor. Data to used is from the Division of Local Government Services in the DCA, which aggregates local assessment information from all municipalities.

B. Under the DCA calculation, the Township of Millburn experienced an equalized nonresidential valuation growth of \$1,187,482,029 between 1999 and 2023. This represents 4.60% of all growth experienced during this period across Region 2.

III. Income Capacity Factor

A. The Income Capacity Factor is calculated pursuant to N.J.S.A. 52:270-304.3.C.3 and is determined by averaging the municipal share of the regional sum of differences between median household income and the same calculation but weighted by number of households within the municipality. To calculate this value, the DCA used the 2018-2022 5-year Estimates published by the Census Bureau's American Community Survey program.

B. Since the publication of the Fair Share Housing Obligations for 2025-2035 by the DCA in October 2024, the U.S. Census Bureau has released the 2019-2023 5-year estimates from the American Community Survey.

C. Topology has prepared an update of the Income Capacity Factor for Region 2 and the Township of Millburn to more accurately reflect the current income capacity. Based upon these updates, the following values have been adjusted, using Table S1901: Total Households, Income in the Past 12



Months (in 2023 Inflation-Adjusted Dollars) and Table S1903: Median Income in the Past 12 Months (in 2023 Inflation-Adjusted Dollars).

D. The table below presents the revised values for the Income Capacity Factor:

TOWNSHIP OF MILLBURN, INCOME CAPACITY FACTOR	2018-2022 ACS	2019-2023 ACS
Number of Households	7,102	6,999
Median HH Income in past 12 Months	\$250,000	\$250,000
\$100 Below Regional Median HH Income Floor	\$46,360	\$48,316
Diff. from Median HH Income Floor with HH Weight	\$1,446,251,280	\$1,411,586,316
HH Weighted Income Difference % of Region Total	3.70%	3.43%
Diff from Median Household Income Floor	\$203,640	\$201,684
Income Difference % of Region Total	2.50%	2.33%
Income Capacity Factor	3.06%	2.88%

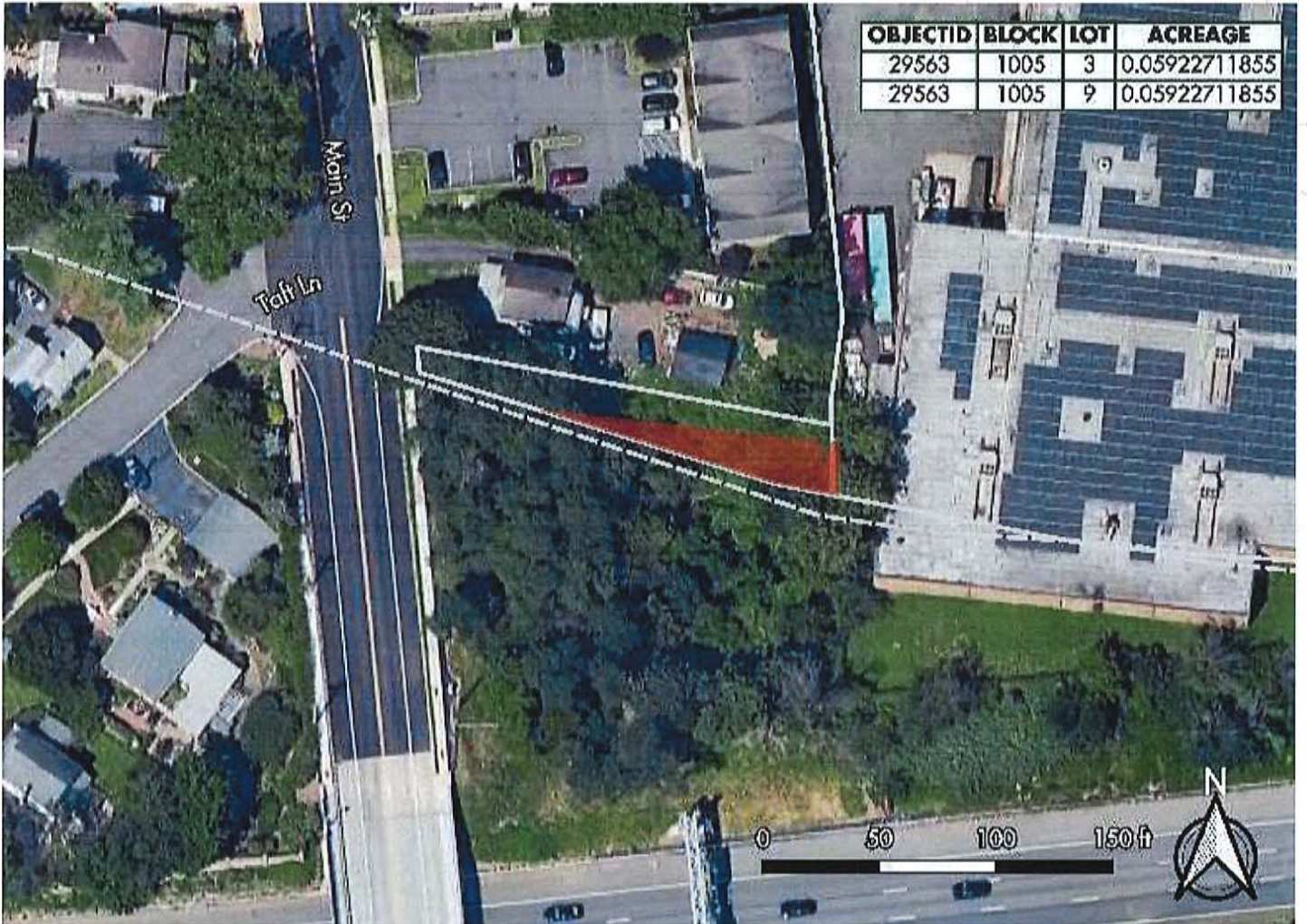
IV. Recalculated Fourth Round Obligation Number

Given the revisions detailed above, Topology recommends the Township of Millburn's allocation factors and prospective need obligations may be revised as follows below.

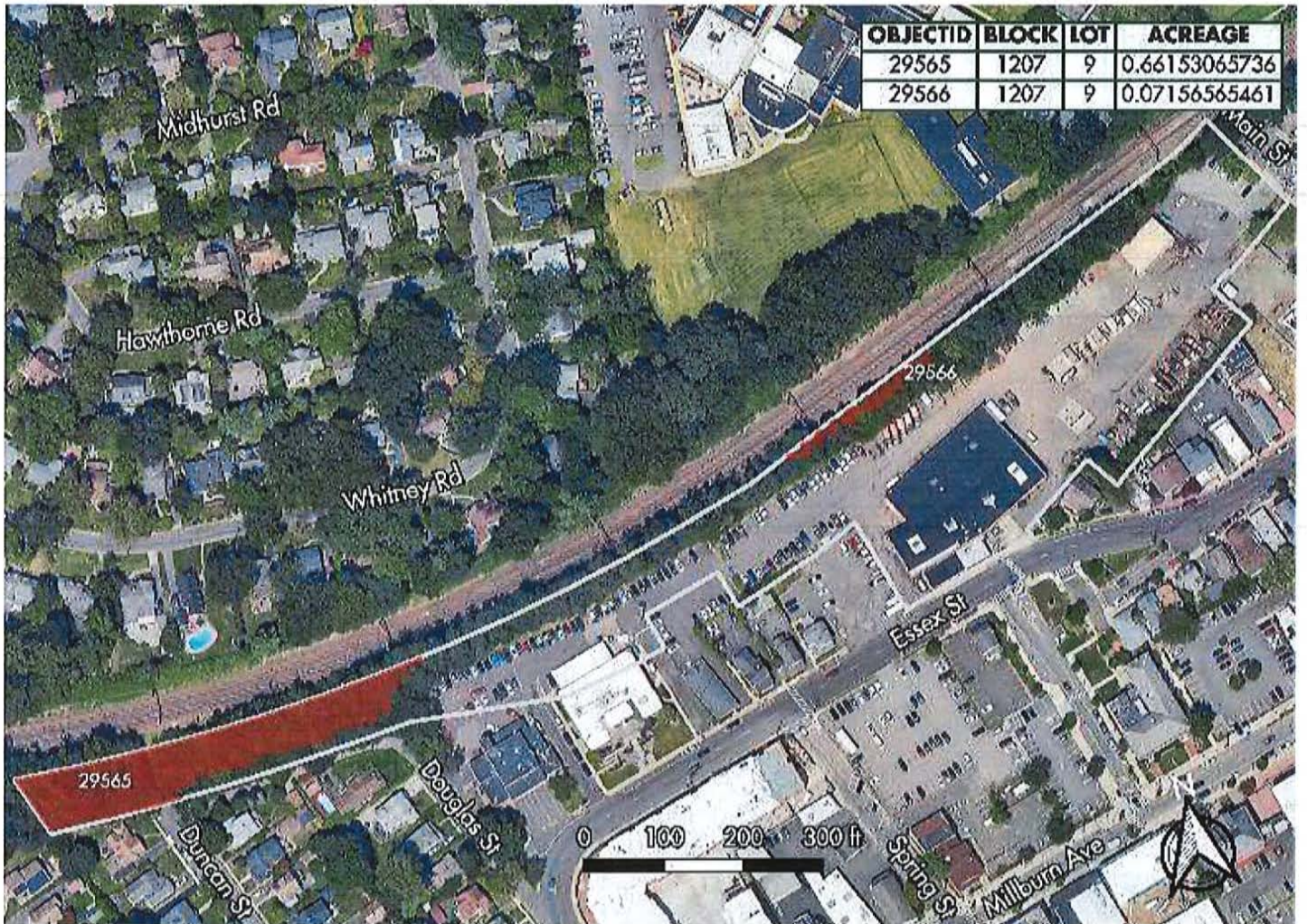
ALLOCATION FACTOR/ PROSPECTIVE NEED	DCA CALCULATION	TOPOLOGY PROPOSED REVISION	CHANGE IN VALUE
Land Capacity Factor	0.46 Factor (24.79 Acres)	0.16 Factor (8.433 Acres)	-0.30
Nonresidential Factor	4.60 Factor (\$1,187,482,029)	Accept DCA Calculation	No Change
Income Capacity Factor	3.06Factor	2.88Factor	-0.18
Average Allocation Factor	2.71Factor	2.55Factor	-0.16
Prospective Need Obligation	555 Units	522 Units	-33 Units



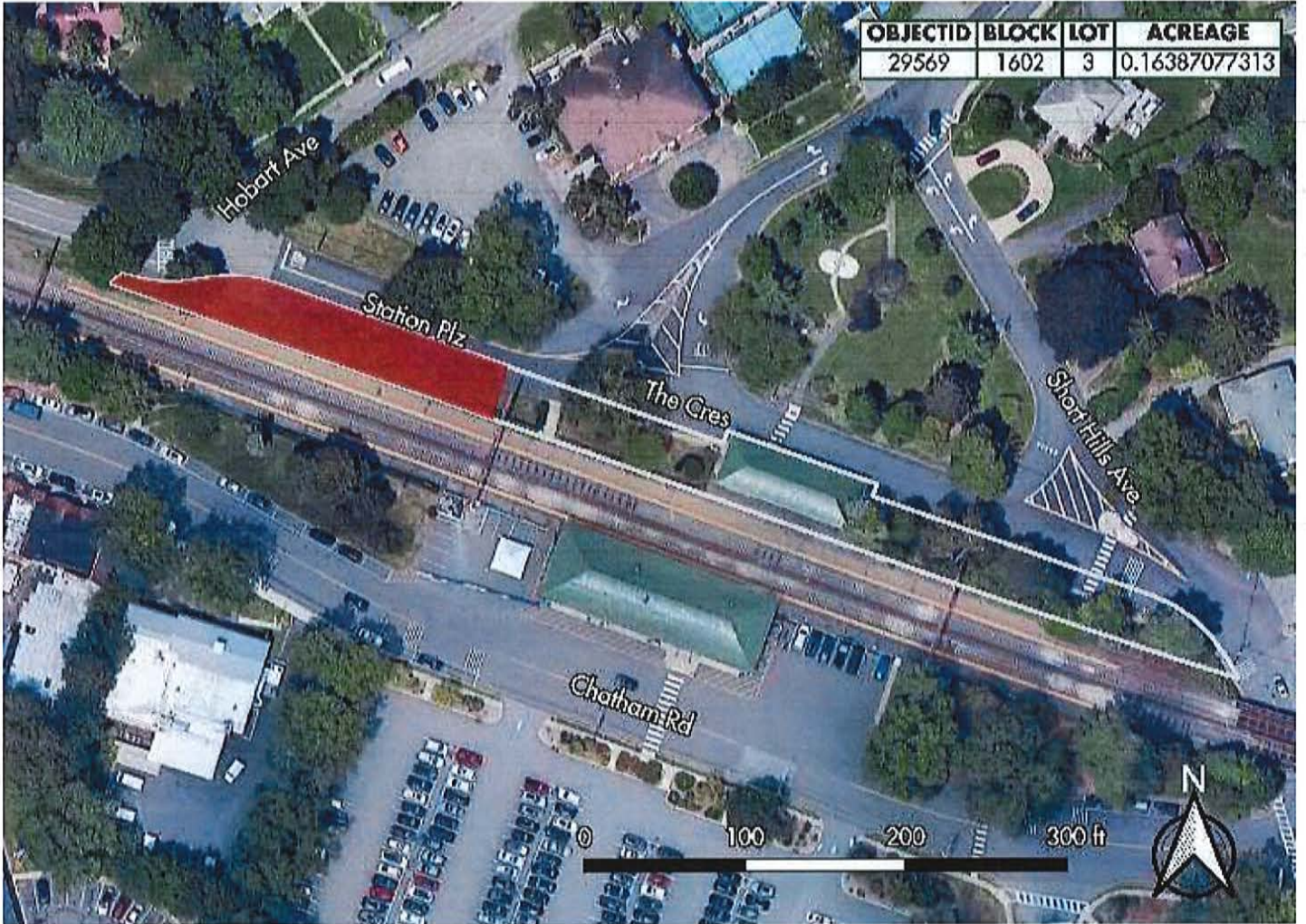
Appendix A – Parcel Maps of Excluded Developable Areas



Area in Red is DCA proposed Developable Area



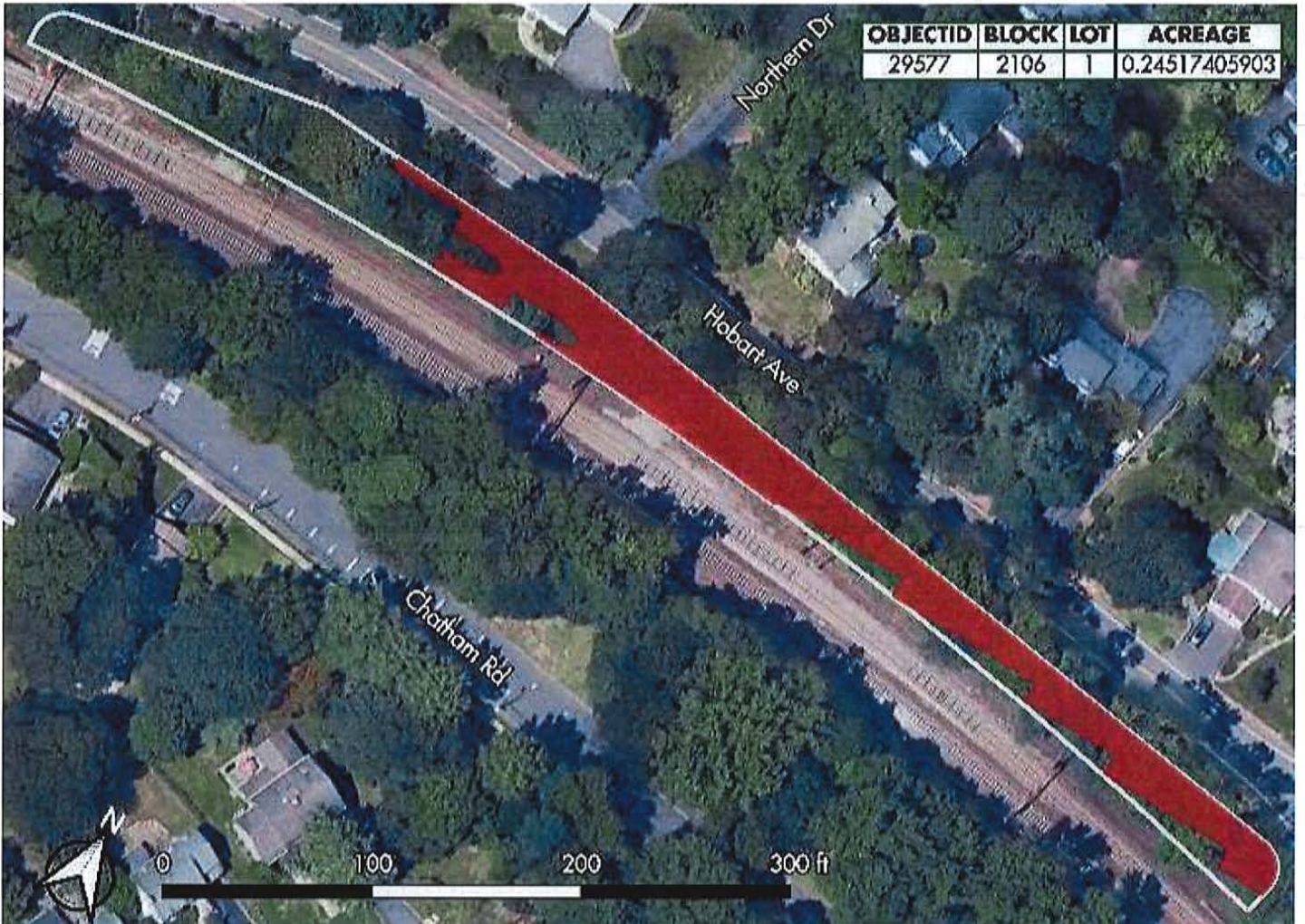
Area in Red is DCA proposed Developable Area



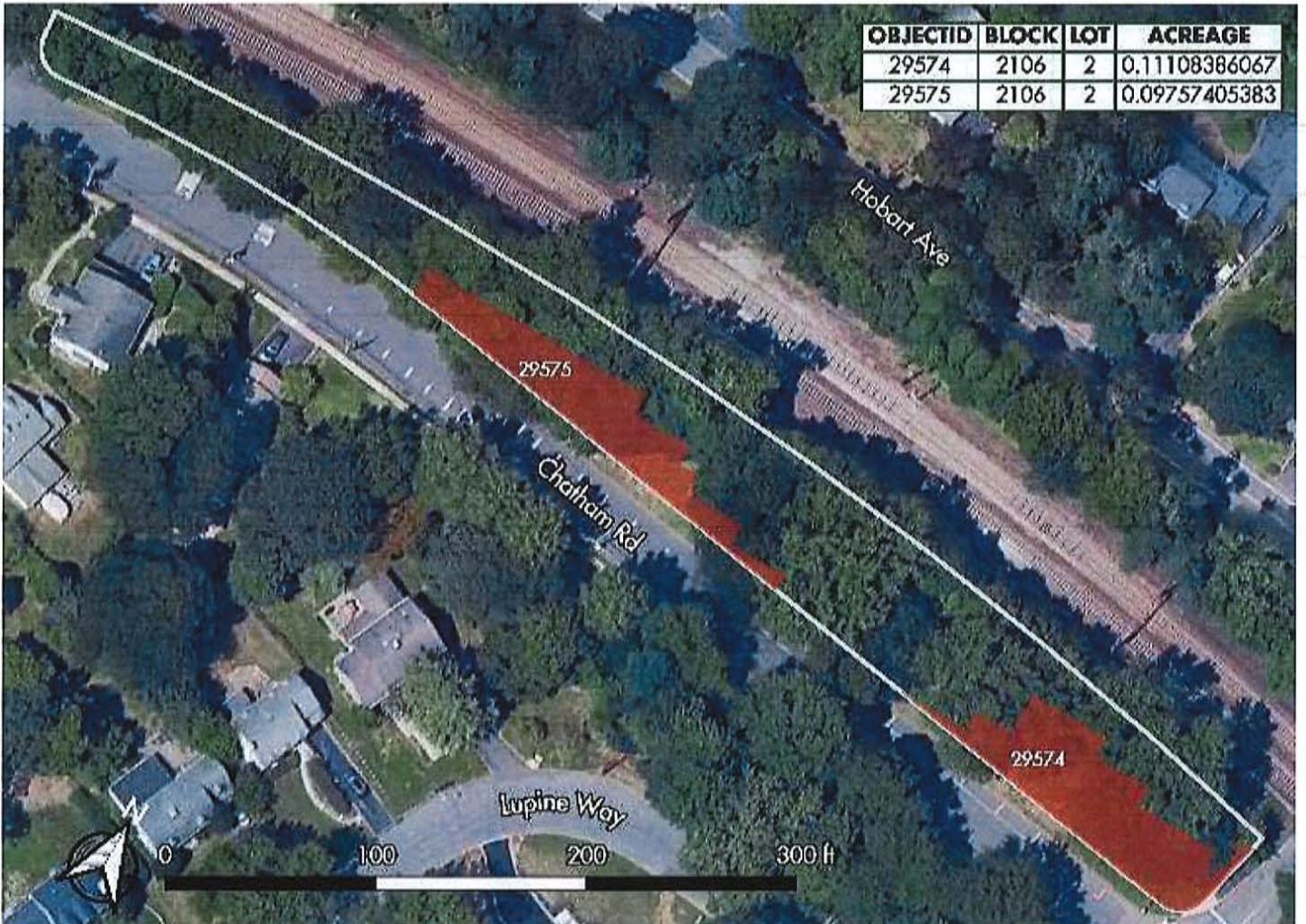
Area in Red is DCA proposed Developable Area



Area in Red is DCA proposed Developable Area



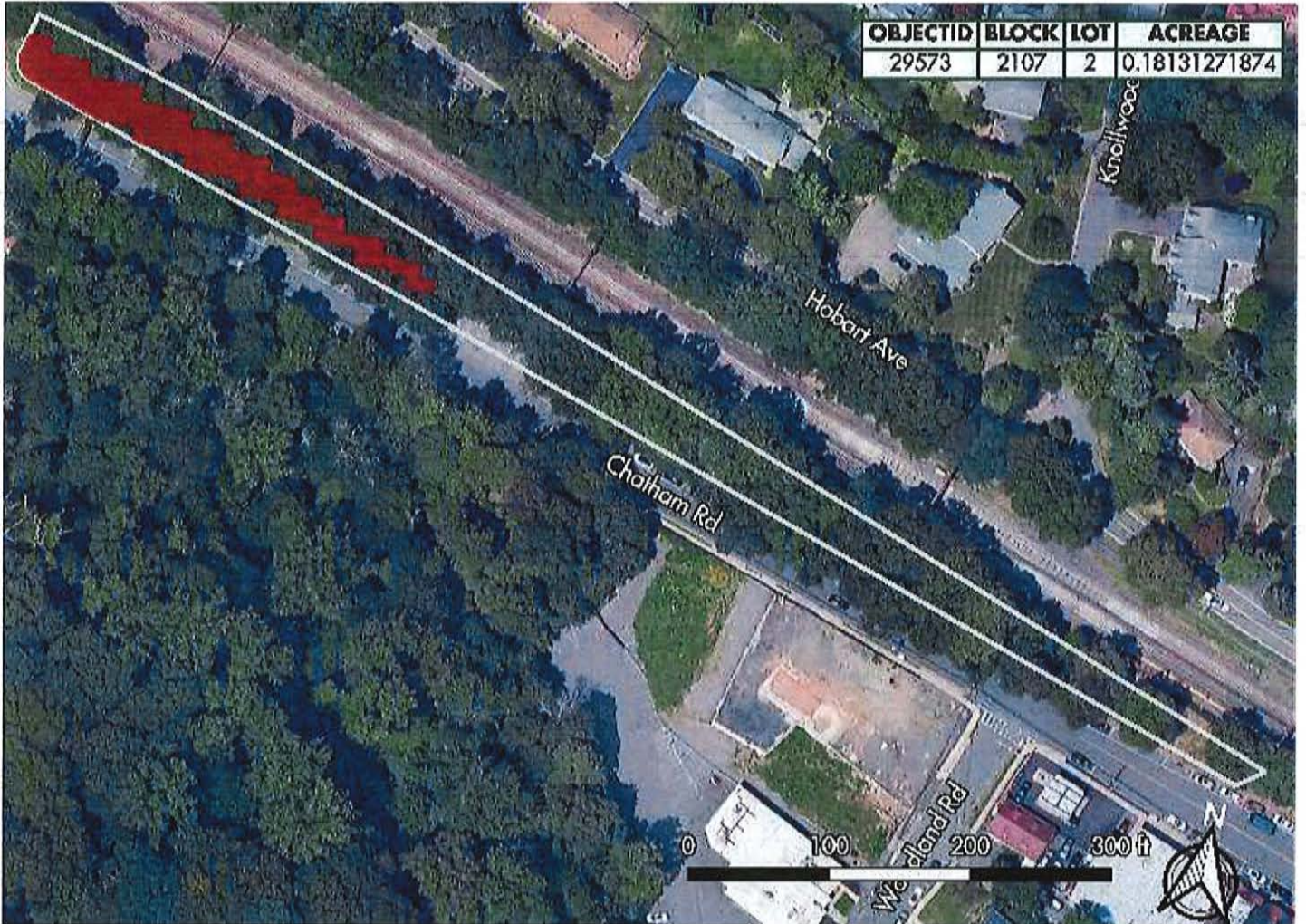
Area in Red is DCA proposed Developable Area



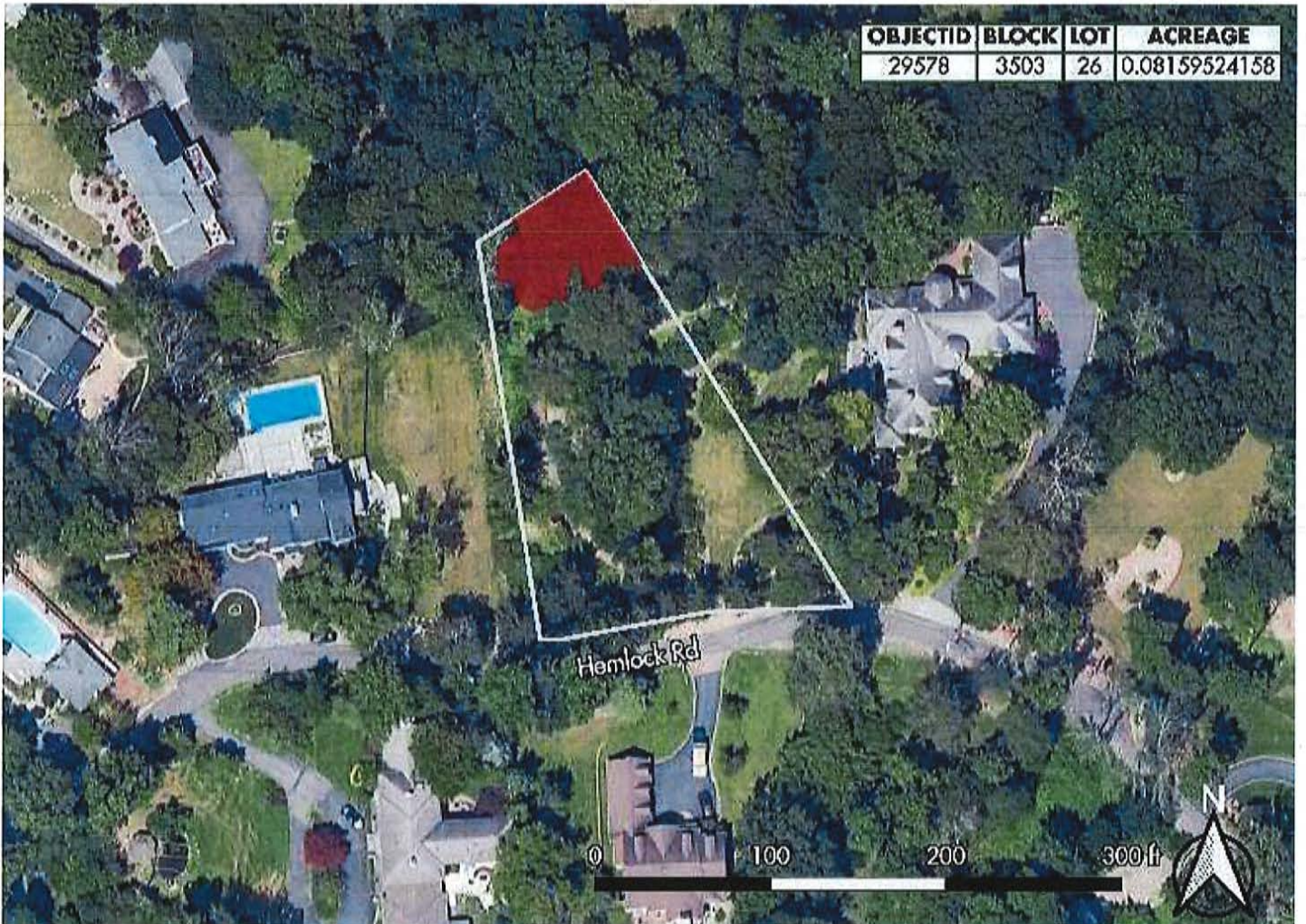
Area in Red is DCA proposed Developable Area



Area in Red is DCA proposed Developable Area



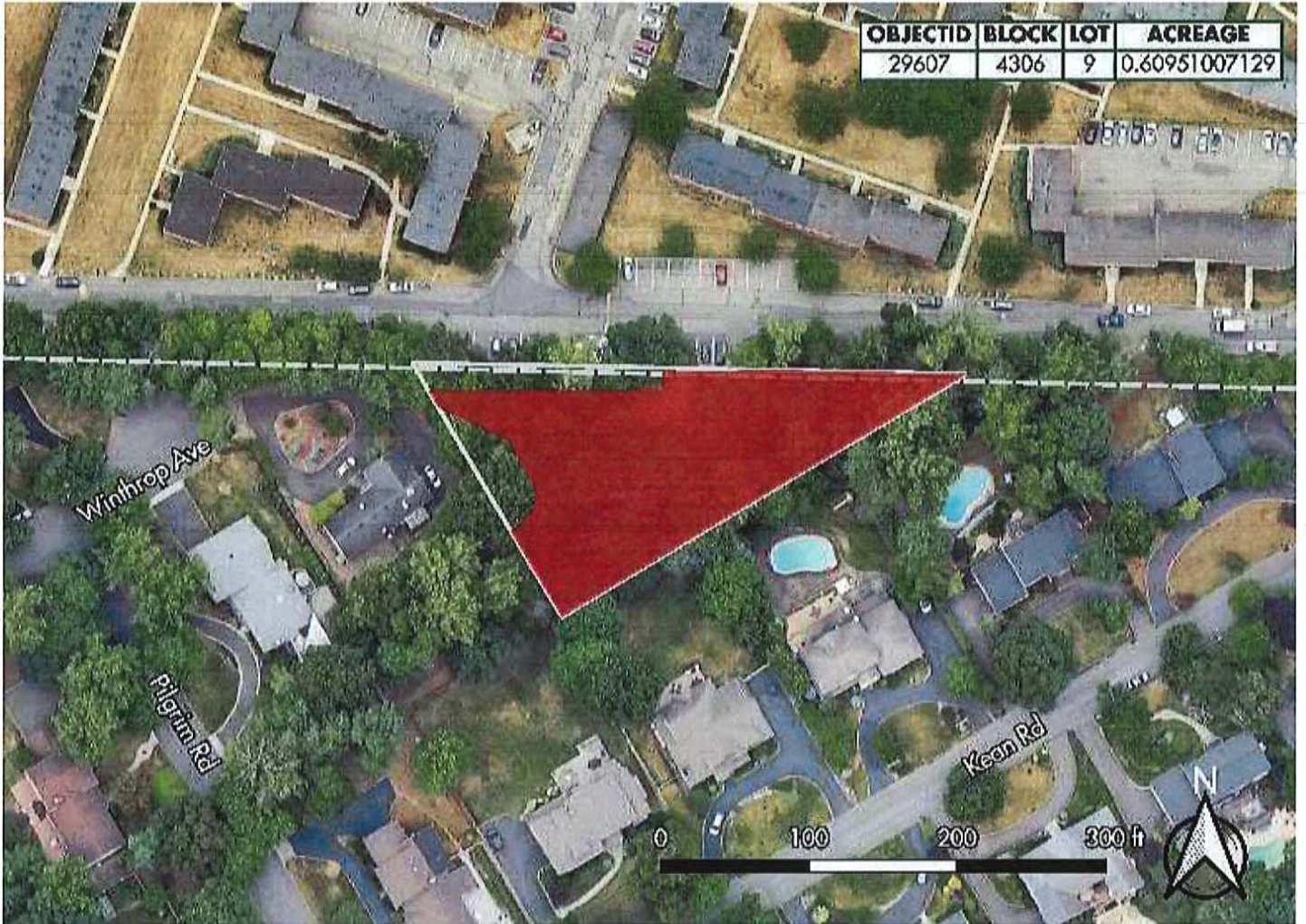
Area in Red is DCA proposed Developable Area



Area in Red is DCA proposed Developable Area



Area in Red is DCA proposed Developable Area



Area in Red is DCA proposed Developable Area

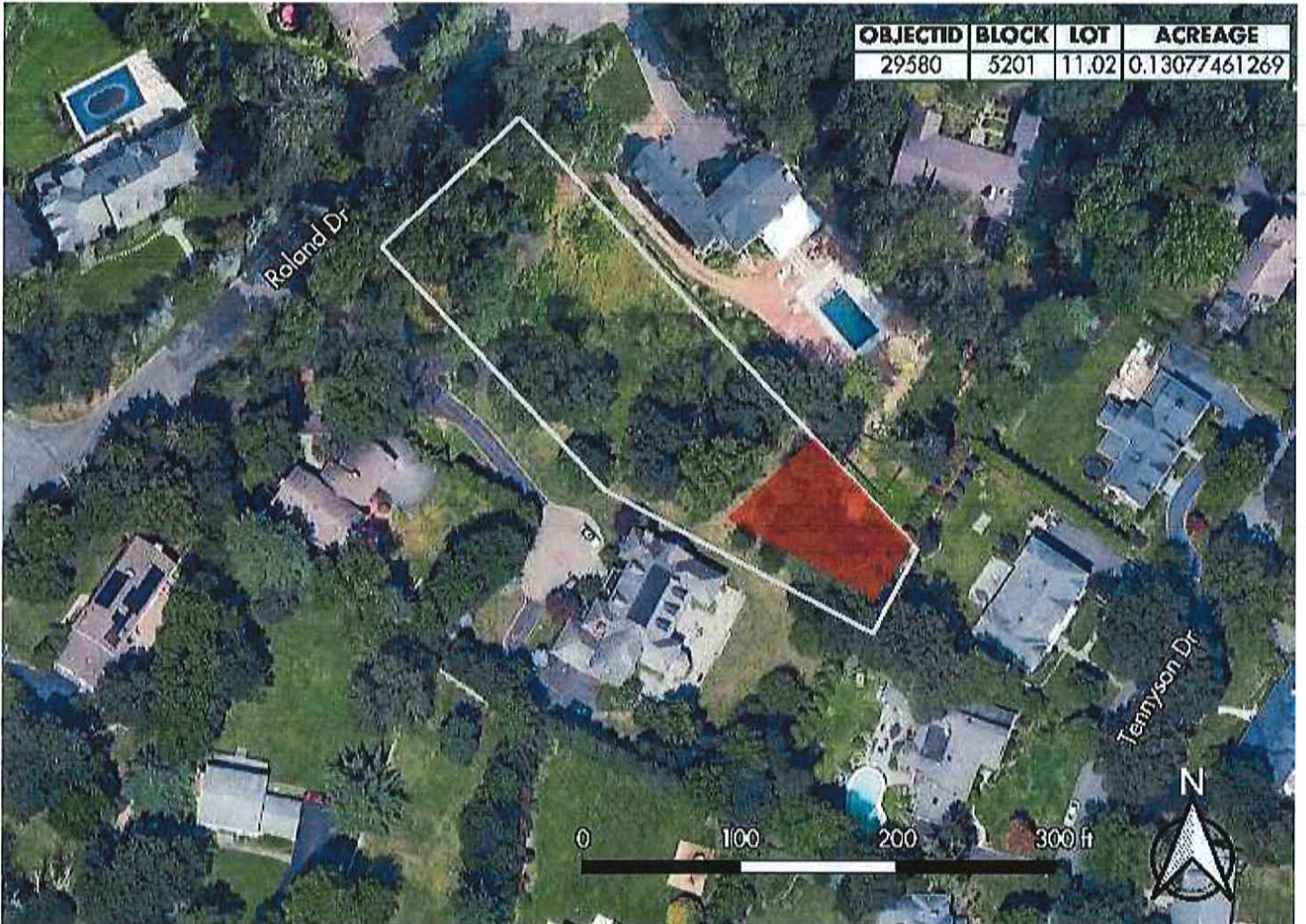
OBJECTID	BLOCK	LOT	ACREAGE
29608	4407	19.01	0.34169312401
29610	4407	19.01	1.73567694557
29608	4407	14	0.34169312401
29603	4407	10	0.35944560112
29608	4407	10	0.34169312401
29599	4407	19	0.11935131205
29601	4407	19	0.0838989242
29602	4407	19	0.34285611041
29603	4407	19	0.35944560112
29604	4407	19	0.53998930733
29605	4407	19	0.50801500849
29606	4407	19	0.06199594406
29609	4407	19	0.29458898311
29610	4407	19	1.73567694557
29603	4407	7	0.35944560112
29603	4407	6	0.35944560112
29603	4407	5	0.35944560112
29600	4407	1	0.15451901849
29599	4407	20	0.11935131205
29600	4407	20	0.15451901849
29601	4407	20	0.0838989242
29600	4407	2	0.15451901849
29601	4407	3	0.0838989242



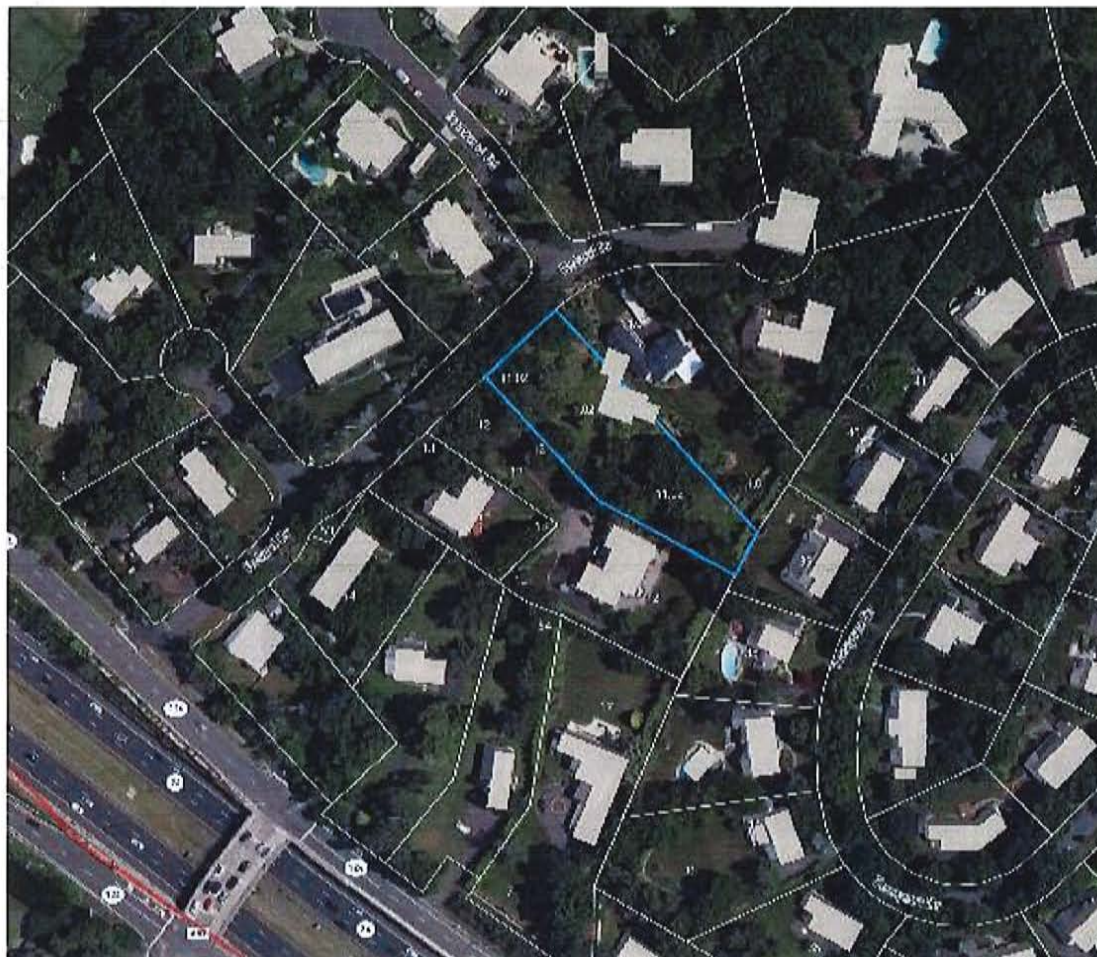
Area in Red is DCA proposed Developable Area



Area in Red is DCA proposed Developable Area



Area in Red is DCA proposed Developable Area



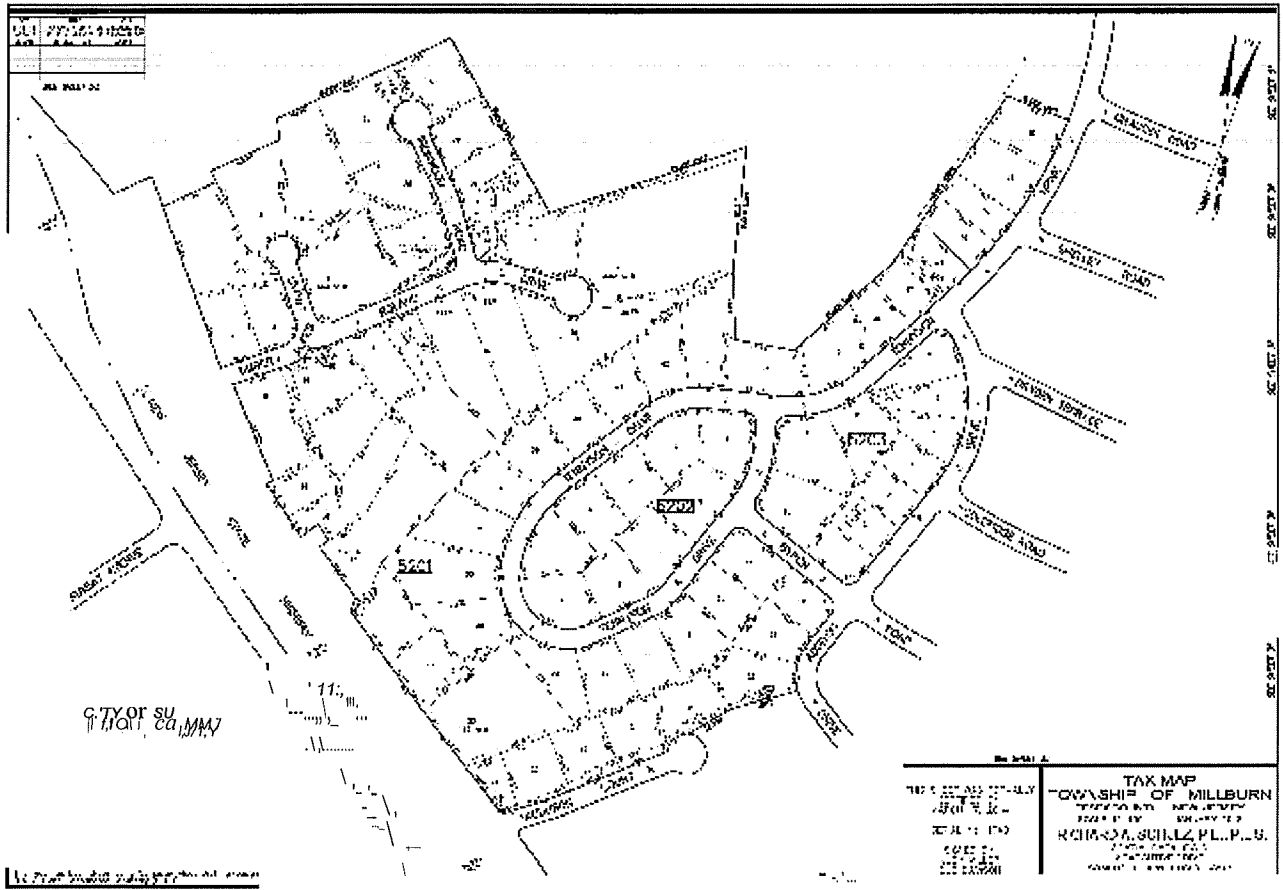
Millburn Township
NJ 07068

Address	10000 Spartan Dr
Address	10000 Spartan Dr
Date	
Property Description	
Acres	
Other Details	
Garage	
Construction	
Final Price	
Lot	
Sub Lot	
Property Valuation	
Val	

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Millburn Township, NJ 07068

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Area in Red is DCA proposed Developable Area



Appendix B – Updated Income Capacity Factor Data Model (2019-2023 American Community Survey)

Income Capacity Factor Calculation

Table with columns: DCA Method, County Subdivision RPS, Municipality, County, Region, Number of Households, Median household income in the past 12 months in 2018 (or latest year)*, \$100 Below Regional Median Regional Income Floor, Diff from Median Household Income Floor, HH Weighted Income Difference % of Region Total, Diff from Median Household Income Floor, Income Difference % of Region Total, Income Capacity Factor, Qualified (Urban/Aid).

Region Income Calculations (Excl. Qualified Urban Aid)

Table with columns: Region, Minimum Median Income, Mid HH Income, Mid HH Income Difference % Households, Mid HH Income Difference.

Income Capacity Factor Calculation

Table with columns: DCA, County, Municipality, Region, Number of Households, Median household income, \$100 Below Regional Median, Diff from Median, Diff from Median, Income Difference, Income, Income, Income Capacity Factor, Qualified Urban Aid. Rows include municipalities like Franklin township, Frenchtown borough, etc.

Region Income Calculations (Excl. Qualified Urban Aid)

Table with columns: Region, Median Income, Median HH Income, Median HH Income, Median HH Income, Median HH Income, Median HH Income. Rows correspond to the municipalities in the first table.

Income Capacity Factor Calculation

Table with columns: ICA, County, Municipality, County, Region, Number of Households, Median household income in the past 12 months, \$100 Below Regional Median, Diff from Median, Income Capacity Factor, Income Qualified Urban Aid, Region, Median Income, Median Household Income, Median Income Difference. Contains rows for various municipalities like Mount Olive township, Nelsong borough, etc.

Region Income Calculations (Excl. Qualified Urban Aid)

Summary table for Region Income Calculations (Excl. Qualified Urban Aid) with columns: Region, Median Income, Median Household Income, Median Income Difference.

Income Capacity Factor Calculation

DCA Municipality	County Sub-division FIPS	Municipality	County	Region	Number of Households	Median household income in the past 12 months (in \$10K)	\$100 Below Regional Median HH Income Floor	DIF from Median Household Income Floor with Household Weight	HH Weighted Income Difference % of Region Total	DIF from Median Household Income Floor	Income Difference % of Region Total	Income Capacity Factor	Qualified Urban Aid
2012	3403950150	Rainfield city	Union	2	16,352	60,334	43,316	0	0.0%	0	0.0%	--	1
2013	3403961510	Rahway city	Union	2	12,155	90,852	43,316	0	0.0%	0	0.0%	--	1
2014	3403964620	Rosette borough	Union	2	8,205	87,507	43,316	0	0.0%	0	0.0%	--	1
2015	3403964650	Rosette Park borough	Union	2	5,136	104,418	43,316	293,750,072	0.7%	56,102	0.6%	0.68%	0
2016	3403965600	Scotts Plains township	Union	2	8,753	173,564	43,316	1,096,045,245	2.7%	115,248	1.4%	2.06%	0
2017	3403970020	Springfield township	Union	2	6,615	146,059	43,316	646,559,945	1.6%	97,743	1.1%	1.35%	0
2018	3403974300	Summit city	Union	2	8,130	199,107	43,316	1,225,930,830	3.0%	150,791	1.7%	2.34%	0
2019	3403974450	Union township	Union	2	21,056	115,938	43,316	1,423,848,832	3.5%	67,632	0.8%	2.12%	0
2020	3403976040	Westfield town	Union	2	10,676	212,700	43,316	1,754,963,554	4.3%	164,384	1.5%	3.68%	0
2021	3403981650	Winfield township	Union	2	769	62,275	43,316	10,734,471	0.0%	13,359	0.2%	0.09%	0
2101	3404100670	Atamuchy townshp	Warren	2	2,439	130,170	43,316	195,641,506	0.5%	81,854	0.9%	0.72%	0
2102	3404101010	Alpha borough	Warren	2	583	83,125	43,316	34,217,247	0.1%	34,809	0.4%	0.24%	0
2103	3404104990	Belvidere town	Warren	2	1,200	100,334	43,316	62,421,600	0.2%	52,018	0.6%	0.24%	0
2104	3404106160	Bradford township	Warren	2	2,132	127,807	43,316	165,688,012	0.4%	79,551	0.9%	0.67%	0
2105	3404124900	Franklin township	Warren	2	1,071	126,250	43,316	83,467,314	0.2%	77,934	0.9%	0.55%	0
2106	3404125320	Freelinghoyen township	Warren	2	775	122,006	43,316	57,109,750	0.1%	73,690	0.9%	0.50%	0
2107	3404128260	Greenwich township	Warren	2	1,761	172,417	43,316	218,541,661	0.5%	124,101	1.4%	0.94%	0
2108	3404128710	Herkertstown town	Warren	2	3,790	91,150	43,316	162,719,660	0.4%	42,951	0.5%	0.43%	0
2109	3404129210	Herdwick township	Warren	2	498	124,167	43,316	37,773,768	0.1%	75,851	0.5%	0.44%	0
2110	3404130590	Harmony township	Warren	2	978	93,478	43,316	44,168,436	0.1%	45,162	0.5%	0.31%	0
2111	3404133060	Hope township	Warren	2	782	106,212	43,316	44,116,752	0.1%	57,896	0.7%	0.33%	0
2112	3404133930	Independence township	Warren	2	2,404	101,282	43,316	127,330,264	0.3%	52,966	0.6%	0.46%	0
2113	3404137320	Knowlton township	Warren	2	1,025	50,750	43,316	54,872,192	0.1%	50,434	0.6%	0.35%	0
2114	3404140110	Liberty township	Warren	2	1,025	119,167	43,316	74,838,656	0.2%	70,851	0.8%	0.50%	0
2115	3404141490	Lepatsong township	Warren	2	4,057	83,358	43,316	162,572,104	0.4%	40,272	0.5%	0.43%	0
2116	3404143320	Mansfield township	Warren	2	3,069	94,432	43,316	143,510,004	0.3%	45,116	0.5%	0.44%	0
2117	3404155310	Orford township	Warren	2	1,054	106,682	43,316	61,517,764	0.1%	58,366	0.7%	0.41%	0
2119	3404159350	Phillipsburg town	Warren	2	6,516	67,322	43,316	118,737,056	0.3%	19,466	0.2%	0.27%	0
2120	3404159820	Pohatsong township	Warren	2	1,387	112,581	43,316	89,690,355	0.2%	64,665	0.7%	0.44%	0
2121	3404177270	Washington borough	Warren	2	3,047	79,240	43,316	94,347,308	0.2%	30,564	0.4%	0.28%	0
2122	3404177300	Washington township	Warren	2	2,567	131,320	43,316	212,891,578	0.5%	82,934	1.0%	0.74%	0
2123	3404180570	White township	Warren	2	2,209	69,519	43,316	45,837,427	0.1%	21,203	0.2%	0.18%	0

Region Income Calculations (Excl. Qualified Urban Aid)

Region	Minimum Median HH Income	Med HH Income Difference % Households	Med HH Income Difference
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