

EXHIBIT "1"

TOWN OF BOONTON

RESOLUTION 25-61

RESOLUTION OF THE TOWN OF BOONTON, COUNTY OF MORRIS AND STATE OF NEW JERSEY, CHALLENGING THE TOWN OF BOONTON'S AFFORDABLE HOUSING PRESENT AND PROSPECTIVE NEED OBLIGATION, FOR THE PERIOD OF JULY 1, 2025 THRU JULY 1, 2035 IN ACCORDANCE WITH P.L. 2024 C.2, AND RESERVING ALL RIGHTS.

WHEREAS, the Town of Boonton (hereinafter "the Town") has a demonstrated history of voluntary compliance with the Mount Laurel doctrine and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq.; and

WHEREAS, the Town is located within the Highlands Planning Area, an area protected and governed by the Highlands Water Protection and Planning Act (hereinafter, "the Act"), N.J.A.C. 7:38-1, et seq., and

WHEREAS, the Act places necessary constraints on development, including but not limited to affordable housing; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), in July 2015, the Town filed a Declaratory Judgment Action in Superior Court, Law Division, Morris County, under Docket No MRS-L-1636-15 (the "2015 Action") seeking, among other things, a judicial declaration that the Town's Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

WHEREAS, the Town's 2015 Action ultimately culminated in a Court-approved Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, entered on August 14, 2020 which entitles the Town to immunity and precludes Mount Laurel lawsuits and exclusionary zoning litigation, including builder's remedy lawsuits, from being filed against the Town until after July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law, P.L. 2024, c.2, which among other things, amended various provisions of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA"), abolished the Council on Affordable Housing ("COAH") and established the Affordable Housing Dispute Resolution Program ("Program"); and

WHEREAS, P.L. 2024, c.2, sets forth that the Fourth Round period of affordable housing obligations shall run from July 1, 2025 through June 30, 2035 ("Fourth Round" or "Round Four"); and

WHEREAS, pursuant to P.L. 2024, c.2, the Town is located in Housing Region 2, which is comprised of Essex, Morris, Union and Warren counties; and

WHEREAS, the amendments to the FHA require the Department of Community Affairs ("DCA") to prepare and publish a report on the calculations of the regional need and each municipality's present and prospective need affordable housing obligations for the Fourth Round within seven months of March 20, 2024; and

WHEREAS, on October 18, 2024 the DCA published its report on the calculations with respect to Statewide regional need and municipal present and prospective need affordable housing obligations for the Fourth Round (the "DCA Report"); and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1e of the FHA, the calculations in the DCA Report are not binding on municipalities; and

WHEREAS, rather, pursuant to N.J.S.A. 52:27D-304.1e, each municipality is required to ultimately determine its respective Fourth Round present and prospective need fair share obligations, and adopt a binding resolution describing the basis for the municipality's determination on or before January 31, 2025; and

WHEREAS, P.L. 2024, c.2, directs that each municipality shall determine its Fourth-Round present and prospective need fair share obligations, in consideration of the calculations in the DCA Report, and in accordance with the formulas established in N.J.S.A. 52:27D-304.2 and -304.3 of the FHA using "necessary datasets that are updated to the greatest extent practicable"; and

WHEREAS, pursuant to P.L. 2024, c.2, the DCA has calculated the total statewide prospective need obligation to be 84,698 units, which equates to a statewide new construction obligation of over 8,400 affordable units per year; and

WHEREAS, the DCA Report ultimately calculates the Town's non-binding Round 4 obligations as follows: 1) a Present Need or Rehabilitation Obligation of "23"; and 2) a Prospective Need or New Construction Obligation of "153"; and

WHEREAS, the Town's Planner, along with the Town Municipal Attorney and Town Tax Assessor have reviewed and analyzed the DCA Report along with the underlying data and data sets relied upon by the DCA in reaching its non-binding calculations for the Town, and have further carefully considered and analyzed the most up-to-date localized data pertaining to the Town, including amongst other verifiable information, land use approvals, site specific information, environmental constraints, construction permits, and MOD-IV data maintained and on file with Town with regard to both the land capacity and equalized non-residential valuation allocation factors; and

WHEREAS, based upon same, the Town's Planner has determined that the DCA's non-binding calculation of the Town's Prospective Need Obligation of "153" is incorrect and erroneous for multiple reasons; and

WHEREAS, in particular, the Town's Planner has confirmed that the DCA arrived at the Town's land capacity factor using incorrect assumptions and inaccurate data to erroneously determine that approximately 53.35 acres of land in the Town is "developable"; and

WHEREAS, using the most up-to-date localized data and information available, the Town, the Town Planner has determined for a variety of reasons that the DCA incorrectly considered approximately 42 acres of land in the Town to be "developable" in arriving at the Town's allocated land capacity factor; and

WHEREAS, by way of example, the DCA erroneously assumed to be "developable" nearly 40 acres of Class 15D property owned by the New Jersey Firemen's Home, which is an institution of the State of New Jersey and which the New Jersey Firemen's Home is currently situated on; and

WHEREAS, both the New Jersey Firemen's Home, as well as the use and development of the 40 acres of property owned by the Firemen's Home in the Town, are strictly regulated by the New Jersey Firemen's Home Statute, N.J.S.A. 30:7-1 to -12 and the by-laws and rules adopted by the Firemen's Home; and

WHEREAS, the Town's Planner has prepared a full analysis of its determinations and basis which are summarized and incorporated by reference above, and which is attached hereto as Exhibit "A"; and

WHEREAS, based upon the above-referenced analysis and the professional opinions of the Town Planner, the Town accepts the DCA's estimate set forth in the DCA Report with respect to the Town's Fourth Round Present Need Obligation of "23", but rejects the non-binding calculations and estimates set forth in the DCA Report with respect to the Town's Fourth Round Prospective Need obligation; and

WHEREAS, the Town's Planner has further independently calculated the Township's Fourth Round Prospective Need Obligation based on the criteria, methodology and datasets required by N.J.S.A. 52:27D-304.3, and has arrived at a Fourth Round Prospective Need Obligation that accurately reflects the most up-to-date pertinent factual data specific to the Town; and

WHEREAS, N.J.S.A. 52:27D-304.1f(1)(b) provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7 of P.L. 2024, c.2 ... [;]" and

WHEREAS, the Town's calculation of its Present Need and Prospective Need obligations is/are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of P.L. 2024, c.2; and

WHEREAS, the Town, however, specifically reserves the right to adjust its Present Need and Prospective Need Obligations, including for any of the foregoing adjustments: 1) a windshield survey or similar survey which accounts for a lower resolution of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sewer or lack of water); and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including, but not limited to the Highlands Regional Master Plan and its build out; and

WHEREAS, in addition to the foregoing, the Town specifically reserves all rights to revoke this resolution and commitment to its present and prospective need obligation in the event of: (1) a successful challenge to P.L. 2024, c.2 as a result of the pending litigation entitled: Borough of Montvale et al. v. State of New Jersey, et al., Docket No.: MER-L-1778-24; (2) any other successful challenge to P.L. 2024, c.2, or any directive or regulation adopted pursuant thereto; and/or (3) any subsequent legislative or regulatory enactment which alters or changes the deadlines, calculations, methodology and/or other requirements of P.L. 2024, c.2; and

WHEREAS, the Town further specifically reserves the right to take a position that its Round 4 Present or Prospective Need Obligations are lower than described herein in the event a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in P.L. 2024, c. 2 requires or can require an increase in the Town's Round 4 Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of P.L. 2024, c.2, is to establish, for example, unchallenged numbers by default as of March 1, 2025; and

WHEREAS, in light of the above, the Mayor and Town Council of the Town of Boonton finds that it is in the best interest of the Town to declare its obligations in pursuant to P.L. 2024, c.2 in accordance with this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of Town of Boonton, in the County of Morris, and State of New Jersey as follows:

1. All of the Whereas Clauses set forth above are hereby incorporated into the operative clauses of this resolution by reference.
2. The Mayor and Town Council of the Town of Boonton hereby commit to a Round 4 Present Need Obligation of 23 and the Round 4 Prospective Need Obligation of 99, as described in this resolution, and which such commitment to the Town's Fourth Round Affordable Housing Obligations be and is hereby subject to the Town's reservation of all rights it may have, as described in this resolution or otherwise, to revoke, repeal, suspend, amend or modify this Resolution by further action of the Town, including but not limited to, the following:

- a) The right to adjust, modify, cancel, withdraw or revoke the Town's commitment to its Round 4 Present Need and Prospective Need Obligations, and/or to otherwise revoke, repeal, suspend, amend, or modify this Resolution should additional information or evidence become available or discoverable to the Town in the future;
 - b) The right to adjust the Town's Present Need Obligation based on the results of a windshield survey;
 - c) The right to adjust the Prospective Need Obligation based on lack of available vacant and developable land, sewer, water, and/or due to regional planning inputs, formulas or considerations, including, but not limited to the Highlands Regional Master Plan and its build out, or any combination of the above;
 - d) All rights to revoke this resolution in the event of a successful legal challenge to P.L. 2024, c.2, a legislative change to P.L. 2024, c. 2, or any successful challenge to any directive or regulation adopted pursuant to P.L. 2024, c.2, or any change or amendment to such directives or regulations;
 - e) All rights to take a position that the Town's Round 4 Present or Prospective Need Obligations are lower than described herein in the event a third party challenges the calculations provided for in this Resolution; and/or
 - f) All rights to take a position that the Town's Round 4 Present or Prospective Need Obligations are lower than described herein in the event a third-party claims the Town's Round 4 Present or Prospective Need Obligations require an increase based on a reallocation or modification of the Regional Present or Prospective Need Obligations allegedly due from a successful reduction of the allocated present and prospective need obligations assigned to another municipality in the Region.
3. The Town's calculation of Present and Prospective Need Obligations is/are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of P.L. 2024, c.2.
4. In accordance with N.J.S.A. 52:27D-304.1, the Town hereby directs its Municipal Attorney to file an action with the Affordable Housing Dispute Resolution Program along with this resolution and take all necessary and proper steps to address any challenges to same by any interested parties.
5. The Town further commits to adopt its housing element and fair share plan pursuant to N.J.S.A. 52:27D-304.1f(2) based on this determination on or before June 30, 2025, and hereby further directs the Municipal Attorney, Professional Planner and Professional Engineer to begin taking steps to prepare same.
6. A copy of this resolution, along with the filing date of Town's action with the Program, shall be placed on to the Town's website.
7. A copy of this resolution shall remain on file in the Town Clerk's office and available for public inspection.
8. This resolution shall take effect immediately, according to law.

Adopted: January 21, 2025

Elizabeth Bonsiewich

Elizabeth Bonsiewich, Municipal Clerk


James Lynch, Mayor

EXHIBIT "A"

MEMORANDUM

Date: January 14, 2025
 To: Town of Boonton
 From: Topology

SUBJECT: FOURTH ROUND AFFORDABLE HOUSING ASSESSMENT OF DCA NUMBER

I. Background and Purpose

On October 18, 2024, the Department of Community Affairs ("DCA") published a report with regard to its methodology and non-binding calculations for the Fourth Round, entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background" (hereinafter the "DCA Report") as required by the legislative amendments to the New Jersey Fair Housing Act, P.L. 2024, c. 2., signed into law on March 20, 2024. The DCA subsequently issued supplemental data releases through November 23, 2024, which included the DCA's publication of its Land Capacity Analysis GIS Composite Layer.

The purpose of this memorandum is to provide an assessment of the DCA's non-binding calculations of the Town of Boonton's Prospective Need Obligation for the Fourth Round of Affordable Housing

In the DCA Report, the DCA has presented a non-binding calculated prospective need obligation for the Town of Boonton of 153 units before accounting for credits, bonus credits and adjustments. The following assessment is our independent review of the DCA's calculation of the Town of Boonton's Prospective Need Obligation. This assessment also includes a summary of our analysis of the underlying component data relied upon by the DCA in arriving at its non-binding Prospective Need Obligation calculation with respect to each of the three allocation factors (Income Capacity, Land Capacity, and Equalized Nonresidential Valuation). In reviewing the underlying component data relied upon by the DCA, we also conducted an independent review of localized up-to-date land use data for the Town of Boonton and compared same to the DCA's component data to either confirm or revise the figures presented by the DCA to reflect the most up-to-date and current data. As part of this analysis, we relied upon the datasets and methodology set forth within N.J.S.A. 52:27D-304.1, -304.2 and -304.3 of P.L. 2024, c.2; and the Mach 8, 2018 decision issued by the Honorable Mary C. Jacobson, A.J.S.C. (ret.) of the Superior Court, Law Division, Mercer County, in the case: In re Application of Municipality of Princeton ("2018 Decision").

II. Land Capacity Factor Assessment

- A. The Land Capacity Factor is calculated pursuant to N.J.S.A. 52:27D-304.3c(4), and is determined by estimating the area of developable land within the municipality's boundaries, and regional boundaries, which may accommodate development "through the use of the 'land use/land cover data' most recently published by the Department of Environmental Protection, data from the American Community Survey and Comprehensive Housing Affordability Strategy dataset thereof, MOD-IV Property Tax List data from the Division of Taxation, in the Department of the Treasury, and construction permit data from the Department of Community Affairs and weighing such land based on the planning area type in which such land is located." Furthermore, consideration was given to the guiding principle stressed by Judge Jacobson in the 2018 Decision:

Any reasonable methodology must have as its keystone three ingredients: reliable data, as few assumptions as possible, and an internal system of checks and balances. Reliable data refers to the best source available for the information needed and the rejection of data which is suspect. The need to make as few assumptions as possible refers to the desirability of avoiding subjectivity and avoiding any data which requires excessive mathematical extrapolation. An internal system of checks and balances refers to the effort to include all important concepts while not allowing any concept to have a disproportionate impact.

- B. The DCA conducted its Land Capacity analysis using Land Use / Land Cover data from the NJ DEP, MOD-IV 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.
- C. Under the analysis, the DCA estimates that the Town of Boonton presently has 53.35 acres of land that may accommodate development. This represents 1.0% of the amount of developable land across the entire Region 2, which encompasses Essex, Morris, Union, and Warren Counties (see N.J.S.A. 52:27D-304.2b (1)).
- D. To assess the Land Capacity Factor, Topology extracted the resultant Land Capacity Analysis GIS Composite Layer relied upon by the DCA and overlaid the file with the parcels for the Town of Boonton, reviewing the configuration of developable land within these parcels. Based upon this parcel-by-parcel review, Topology estimates that 42.53 acres of the 53.35 acres calculated by DCA are not in fact developable. A parcel-by-parcel summary is provided below. Appendix A includes maps of all properties that have been identified as not available for development.
- E. Properties Not Available for Development – 42.53 Acres

PROPERTY	STATUS
Block 105, Lot 4.01 Railroad to I-287 0.12 Acres	Developable area is very limited in size (0.12 acres) and irregularly configured. Property is owned by the Jersey City Municipal Utilities Authority.
Block 34, Lot 9 110 Plane Street 0.08 Acres	Developable Area is very limited in size (0.08 acres) and is a land-locked portion of property which currently contains Boonton Housing Authority public housing building.
Block 90, Lot 85 565 Lathrop Avenue 39.86 Acres	This Property contains the New Jersey Firemen's Home. The NJ Firemen's Home was created by the New Jersey Legislature in 1898 pursuant to L. 1898, c. 127.

PROPERTY	STATUS
	<p>This Property was purchased and the Firemen's Home constructed with taxpayer money pursuant to this statute and is governed by a Board of Managers. See L. 1899, c. 20.</p> <p>As per N.J.S.A. 30:7-7: <i>No person shall be admitted into the New Jersey Firemen's Home as a patient or guest unless he is or has been an active fireman of this State and is aged or needy and unable to procure the means sufficient for his comfortable support and necessary care and attendance; or unless he has been permanently or temporarily disabled in the discharge of the duties as a fireman of this State; or unless from sickness or other disability contracted in such service or in consequence thereof he is needy and unable to secure the necessary means for his treatment, cure, comfortable support and proper care and attendance.</i></p> <p>By State statute, the Board of Managers of the NJ Firemen's Home is a direct agency and institution of the State of New Jersey and the Board of Managers and the New Jersey Firemen's Home and all the real and personal property thereof is/are regulated by the New Jersey Firemen's Home Statute, N.J.S.A. 30:7-1 to -12. Specifically, Section: 30:7-2 states "the board of managers shall govern, manage and conduct the New Jersey Firemen's Home, and, subject to the approval of the Governor, direct and control its property."</p>
<p>Block 72, Lot 30 Vreeland Avenue 0.01 Acres</p>	<p>Developable area is very limited in size (0.01 acres), and the parcel is landlocked with no road access.</p>
<p>Block 118, Lot 1.01 Chestnut Street (Barrister Court) 2.18 Acres</p>	<p>Property has land use approvals and is already under construction to be improved with multi-family inclusionary affordable apartment building that will include age-restricted affordable housing units.</p>
<p>Block 61, Lot 15.03 Church Street 0.28 Acres</p>	<p>Developable area is noncontiguous and the parcel is landlocked with no road access.</p>

F. Given the constraints of these existing properties, Topology estimates that the amount of developable land within the Town of Boonton should be revised to reflect accurate information and up-to-date land use/land cover data. When this localized up-to-date data is incorporated, a change is necessary which results in a reduction of developable acres within the Town of Boonton from 53.35 acres, as calculated by DCA, to 10.82 acres. This would also reduce the total developable land within Region 2 from 5,358.48 acres to 5,315.95 acres. The resulting land area for the Town of Boonton was then summed with the land areas for all other non-qualified urban aid municipalities in Region 2 in accordance with the requirements of P.L. 2024, c.2. Accounting for these changes, the Land Capacity Factor for the Town of Boonton would be modified from 1.0% as calculated by DCA to 0.20%.

III. Equalized Nonresidential Valuation Assessment

- A. The Equalized Nonresidential Valuation Factor is calculated pursuant N.J.S.A. 52:27D-304.3.c (2) 2 and is determined by calculating 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 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 Town of Boonton experienced an equalized nonresidential valuation growth of \$186,374,259 between 1999 and 2023. This represents 0.7% of all growth experienced during this period across Region 2.
- C. Topology has reviewed the 1999 and 2023 Tax Assessments for the Town of Boonton, by linking them to track changes in assessment status and did not identify any areas that warranted further analysis or correction. Accordingly, the Town of Boonton's Equalized Nonresidential Valuation Factor remains unchanged from that set forth in the DCA Report.

IV. Income Capacity Factor

- A. The Income Capacity Factor is calculated pursuant to N.J.S.A. 52:27D-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. The U.S. Census Bureau released an update of the American Community Survey data for the years 2019-2023 on Thursday December 12, 2024.
- C. Topology has updated the income capacity factor incorporating these new income data and found no change to the Town of Boonton as a result of the updated data. Accordingly, the Town of Boonton's Income Capacity Factor remains unchanged from that set forth in the DCA Report.

V. Recalculated Fourth Round Obligation Number

Given the revisions detailed above to the Town's Land Capacity Factor, Topology recommends the Town of Boonton's allocation factors and prospective need obligations be revised as follows below:

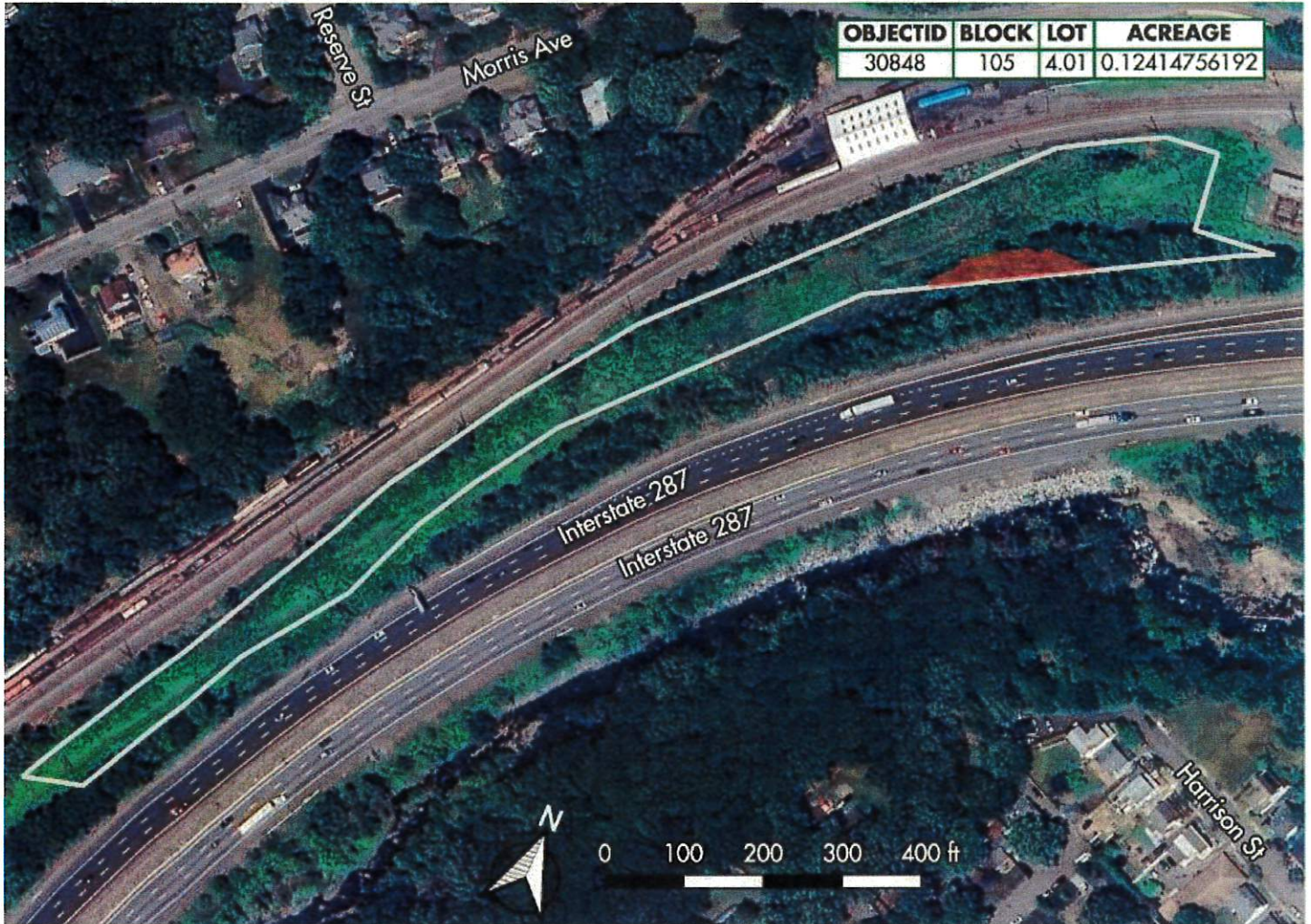
ALLOCATION FACTOR/PROSPECTIVE NEED	DCA CALCULATION	TOPOLOGY PROPOSED REVISION
Land Capacity Factor	53.35 Acres (1.0 Factor)	10.64 Acres (0.20 Factor)
Nonresidential Factor	\$186,374,259 (0.72 Factor)	\$186,374,259 (0.72 Factor) (No change)
Income Capacity Factor	0.52 Factor	0.52 Factor (No change)
Average Allocation Factor	0.75 Factor	0.48 Factor
Prospective Need Obligation	153 Units	99 Units

Based upon the above analysis, and with consideration given to the DCA Report, in accordance with N.J.S.A. 52:27D-304.1, -304.2 and -304.3 of P.L. 2024, c.2 and the 2018 Decision, Topology recommends the Town of Boonton adopt a binding resolution committing to a Fourth Round Prospective Need Obligation

of 99 units before taking into consideration any further credits, bonus credits, and/or adjustments as permitted by law.

All opinions and conclusions set forth herein are within a reasonable degree of professional planning certainty. We reserve the right to amend and supplement our findings, opinions and conclusions should additional information be made available at a later date.

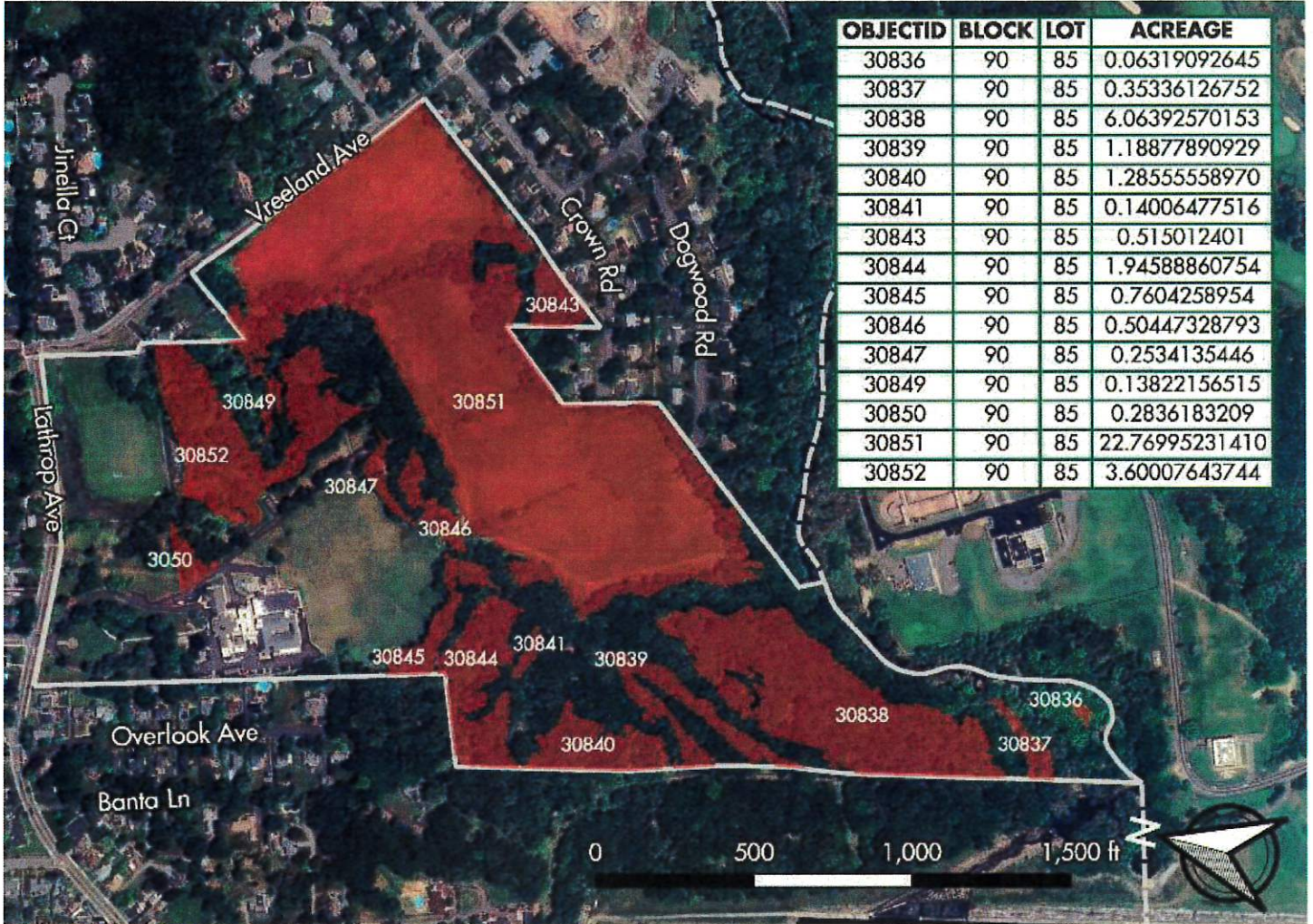
Appendix A



Area in red is developable area as identified by DCA



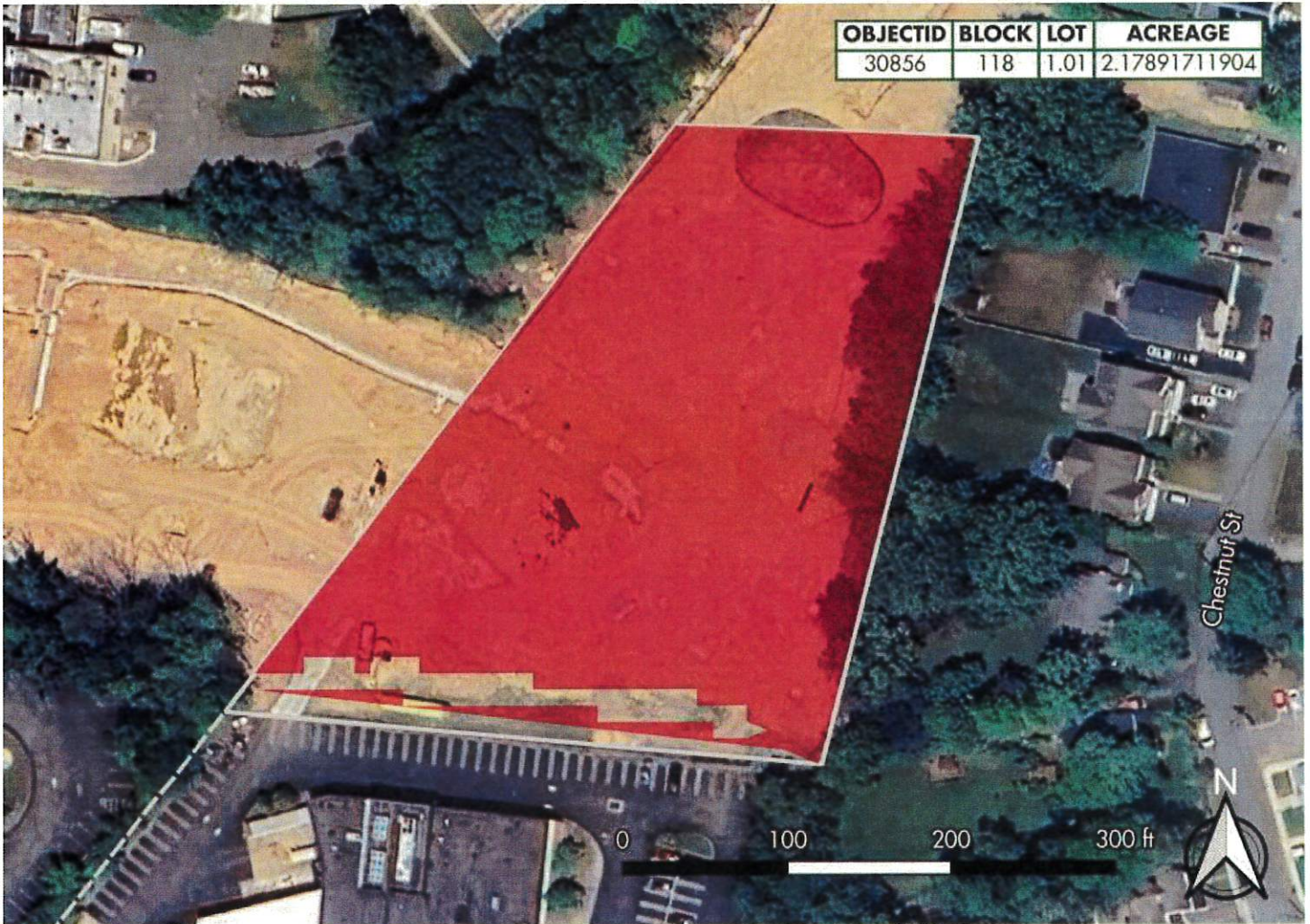
Area in red is developable area as identified by DCA



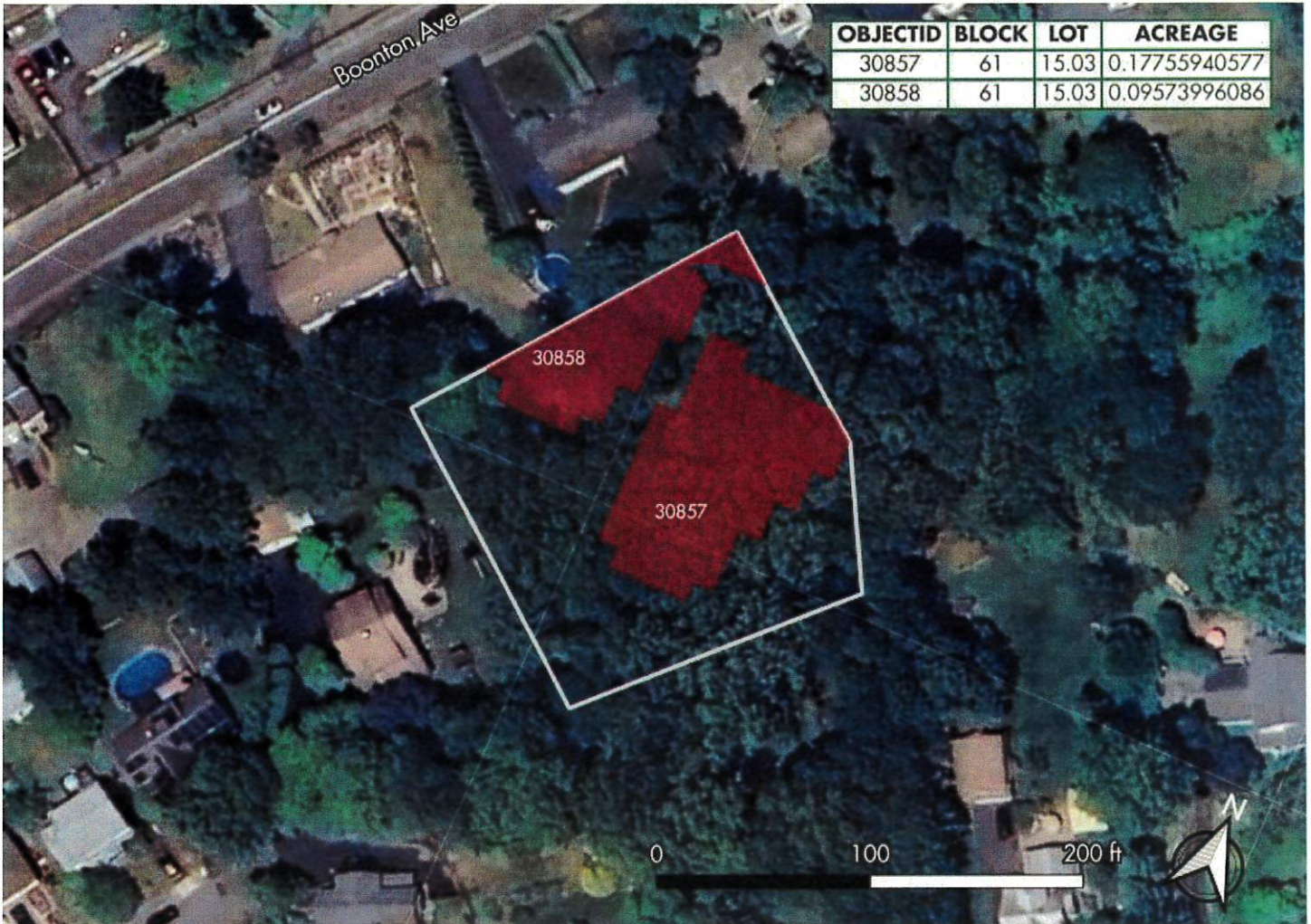
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