

**BOROUGH OF NETCONG  
COUNTY OF MORRIS**

**RESOLUTION 2025-25**

**RESOLUTION ADOPTING THE BOROUGH'S FAIR SHARE  
AFFORDABLE HOUSING OBLIGATION FOR THE FOURTH ROUND**

**WHEREAS**, the New Jersey Supreme Court, through its rulings in Southern Burlington County NAACP v. Mount Laurel, 67 13 N.J. 151 (1975) and Southern Burlington County NAACP 14 v. Mount Laurel, 92 N.J. 158 (1983), determined that every municipality in New Jersey has a constitutional obligation to provide through its land use regulations a realistic opportunity for its fair share of its region's present and prospective needs for housing for low- and moderate-income families; and

**WHEREAS**, on March 20, 2024, Governor Murphy signed P.L.2024, c.2. into law, establishing a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et al.); and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), (the "Amended Act") each municipality must adopt a binding resolution no later than January 31, 2025 determining its present and prospective fair share obligation for the Fourth Round; and

**WHEREAS**, pursuant to Administrative Directive #14-24 issued by the Administrative Office of the Courts on December 13, 2024, "[a] municipality seeking a certification of compliance with the [Amended Act] shall file an action in the form of a declaratory judgment complaint and Civil Case Information Statement (Civil CIS) in the county in which the municipality is located" within 48 hours of adopting the municipal resolution of fair share obligations; and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1(d), the New Jersey Department of Community Affairs issued “a report on the calculations of regional need and municipal obligations for each region of the State” on or about October 18, 2024 (the “DCA Report”) providing its estimate of the obligation of all municipalities based on its interpretation of the Amended Act; and

**WHEREAS**, the DCA Report set the municipal obligation for Netcong Borough as follows:

Present Need: 24  
Prospective Need: 50

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

**WHEREAS**, Borough Planning Consultants Paul A. Phillips, AICP, PP and Elizabeth Leheny, AICP, PP, issued a memorandum to the Borough dated January 24, 2025 containing an evaluation of the accuracy of the DCA information and calculations used to determine the municipal obligation for the Borough of Netcong. A copy of this Memorandum is attached hereto; and

**WHEREAS**, the Borough Planners analysis adjusted the Land Capacity Factor after determining that the total developable acreage correctly utilizing the statutory mechanism was 12.80 acres. This reduced the Land Capacity Factor to "0.24%" from the original "0.28%"; and

**WHEREAS**, the Borough Planner’s analysis also confirmed that no adjustment was needed to the DCA determined Equalized Nonresidential Valuation Factor or the Income Capacity Factor and;

**WHEREAS**, By applying the adjusted land Capacity Factor to the Average Allocation

Factor the final housing obligation for Netcong should be 47 units.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Netcong, in the County of Morris and State of New Jersey, as follows:

1. Netcong Borough hereby determines, based on the DCA Report and the evaluation of the accuracy of the DCA information and calculations by the Municipal Planner, to modify the obligations set forth in the DCA Report and declare the municipal Affordable Housing obligation to be:

Present Need: 24

Prospective Need: 47


2. The Borough's Fourth Round Affordable Housing Obligation herein established shall be subject to adjustments made to account for future decisions of a court of competent jurisdiction on any challenges to the Amended Act or DCA methodology, any legislative changes adjusting obligations, adjustments in response to any third party challenge to the obligations herein established, and any durational adjustment or vacant land adjustments which will be adopted as part of the municipality's Fourth Round Housing Element and Fair Share Plan.
3. The Municipal Clerk and Municipal Attorney are authorized to take all actions required by N.J.S.A. 52:27D-304.1(f)(1)(b), including:
  - a. Filing a declaratory judgment action with the Superior Court and filing a copy of this Resolution with the Department of Community Affairs within forty-eight hours following adoption of this Resolution.
  - b. Publishing this Resolution on the Borough's website.
4. This Resolution shall take effect immediately.

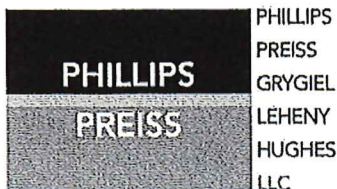
Dated: 1/31/25

By:   
Elmer Still, Mayor

CERTIFICATION

I, Cynthia Eckert, Clerk of the Borough of Netcong, do hereby certify the foregoing to be a true copy of a Resolution adopted by the Borough at a meeting held on January 30, 2025.

  
Cynthia Eckert, Borough Clerk



Planning & Real Estate Consultants

## Memorandum

To: Mayor and Council, Netcong Borough, NJ

From: Paul A. Phillips, AICP, PP  
Elizabeth Leheny, AICP, PP

Date: January 24, 2025

**RE: Assessment and Recommendations for Netcong Borough, NJ  
Regarding Round 4 Present and Prospective Need  
Affordable Housing Obligations**

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### INTRODUCTION

This memorandum provides an analysis and sets forth recommendations to the Mayor and Council of Netcong Borough, NJ (the "Borough") regarding the Borough's Round 4 (2025-2035) Present and Prospective Need affordable housing obligations.

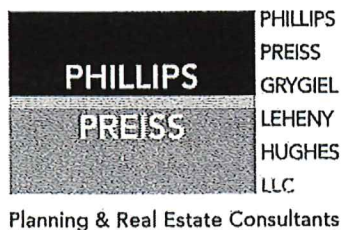
### BACKGROUND

On March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act ("FHA") which required the New Jersey Department of Community Affairs ("DCA") to provide an estimate of the fair share affordable housing obligations of all municipalities on or before October 20, 2024, based upon the criteria outlined in the amended FHA.

DCA issued a report on October 18, 2024 (the "DCA Report") wherein it reported its estimate of the fair share affordable housing obligation for all municipalities based upon its interpretation of the standards in the Act.

The DCA Report calculates Netcong's Round 4 (2025-2035) fair share affordable housing obligations as follows: a Present Need (Rehabilitation) Obligation of 24 and a Prospective Need (New Construction) Obligation of 50.

The Amended FHA states that the DCA Report is non-binding and permits municipalities to demonstrate that the Amended FHA would support revised calculations of Round 4 fair share affordable housing obligations; and provides municipalities the opportunity to propose a different fair share affordable housing obligation from those reported by the DCA Report. The Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025, as to its obligations.



PHILLIPS  
PREISS  
GRYGIEL  
LEHENY  
HUGHES  
LLC

Planning & Real Estate Consultants

Prior to adopting the binding resolution setting forth the Borough's obligations, Netcong has exercised its right to analyze the data reported by DCA in the October 18, 2024 Report. Below is an analysis of the Present Need and Prospective Need obligations stated in the October 18, 2024 Report, as well as our recommendations to the governing body regarding the Netcong's Round 4 obligation.

#### **PRESENT NEED**

DCA's proposed non-binding Prospective Need obligation for Netcong is 24.

***Recommendation: We recommend that Netcong accept the Present Need (Rehabilitation) Obligation of 24 as reported by the DCA in its October 18, 2024 Report.***

#### **PROSPECTIVE NEED**

DCA's proposed non-binding Prospective Need obligation for Netcong is 50. As described in the "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background" report, municipal Prospective Need obligations are calculated as a share of the region in which the municipality is located. Region 2, in which Netcong is located, includes Warren, Union, Morris, and Essex Counties.

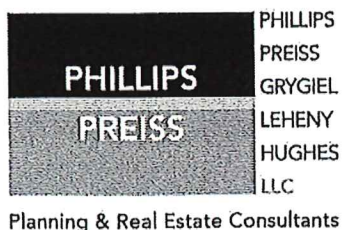
As established in the Amended FHA, the regional Prospective Need is calculated by establishing the increase in households in the region between the 2020 and 2010 Federal Decennial Census and dividing the household change increase by 2.5 to estimate the number of low- and moderate-income households (and the number of homes needed to address same).

The Prospective Need for Region 2 is of 20,506 units, with this need allocated to municipalities throughout the region, except for designated Qualified Urban Aid Municipalities, which are exempt from addressing Prospective Need. Regional Prospective Need is then allocated across the non-qualified urban aid municipalities in the region by applying three factors detailed below.

#### ***Equalized Nonresidential Valuation Factor***

The Equalized Nonresidential Valuation Factor measures the change in nonresidential property valuations in the municipality from 1999 to 2023 divided by the regional total change in nonresidential valuations, with the intent to shift housing to municipalities experiencing employment growth.

Under the DCA calculation, Netcong experienced an equalized nonresidential valuation growth of \$36,625,769 between 1999 and 2023. This represents 0.14 percent of all growth experienced during this period across Region 2, in other words, **the Equalized Nonresidential Valuation Factor for Netcong is 0.14 percent.**



We have reviewed the calculations that resulted in this number, i.e., the 1999 and 2023 Tax Assessment data for Netcong, and do not believe there are any errors that warrant a challenge by the Borough.

#### ***Income Capacity Factor***

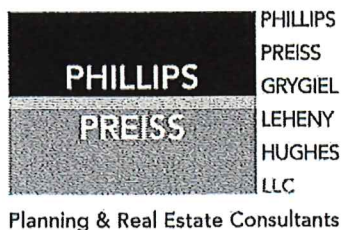
The Income Capacity Factor measures the extent to which a municipality's income level differs from that of the lowest-income municipality in the Housing Region. The factor is calculated by averaging two measures. The first is calculating the municipal share of the regional sum of differences between median household income and an income floor of \$100 below the lowest median household income in the region. The second is the same calculation weighted by number of households within the municipality. The intent is to shift portions of the obligation to municipalities with higher household incomes. This **Income Capacity Factor for Netcong is 0.31 percent**. We have reviewed the calculations that resulted in this number and do not believe there are any errors that warrant a challenge by the Borough.

#### ***Land Capacity Factor***

The Land Capacity Factor purports to determine the total acreage that is developable in a municipality as a proportion of developable acreage in the Region. This is determined by utilizing the most recent land use / land cover data from the New Jersey Department of Environmental Protection (DEP), in combination with the most recently available MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and construction permit data from DCA. The calculation of developable land is intended to 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.

DCA estimated that Netcong has ±15.15 acres of developable land. The DCA calculated that Region 2 contains a total of 5,358 acres of developable land. As such, DCA calculated that the Borough had 0.28 percent of developable land across Region 2.

DCA issued the data that was the basis for the land allocation factor on November 27, 2024. While this data was intended to heed the methodology set forth in the Amended FHA, the land area contained in the dataset was described as an "estimate of the area of developable land, within municipal and regional boundaries, that may accommodate development. It is important to note that the identified areas could be over or under inclusive depending on various conditions



and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program."

The areas identified as developable in the DCA's calculation of the Land Capacity factor is overinclusive per our analysis. A parcel-by-parcel analysis is provided in **Attachment A**. In short, our analysis set forth this basis for removing land treated as developable in the DCA's calculation:

- Areas or portions of areas <25' wide (i.e., DCA's methodology report states that a 25' by 100' area was their minimum threshold for developability).
- Areas within the regulatory floodway.
- Open space/parkland properties with deed restrictions and/or on ROSI or listed as dedicated conservation, park lands and open space in the master plan.
- Properties under construction or recently developed.
- Sites with site plan approvals for development and/or permits issued for development.
- Public utility parcels, NJDOT/NJ Turnpike Authority parcels, DRPA parcels, railroad properties, rights-of-way, stormwater management, schools, houses of worship, etc.
- Properties with easements restricting development within developable area.

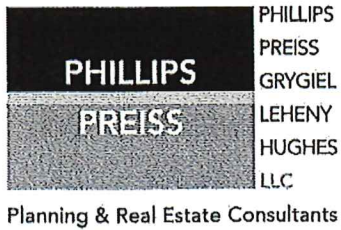
Accordingly, it is our opinion that the amount of developable land should be adjusted from  $\pm 15.15$  acres to  $\pm 12.80$  acres. This would also reduce the total developable land within Region 2 by  $\pm 2.35$  acres from 5,358 acres to  $\pm 5,356$  acres. **The Land Capacity Factor for the Borough would also be reduced from 0.28 percent to  $\pm 0.24$  percent.**

#### ***Prospective Need Obligation***

Pursuant to the Amended FHA, DCA averaged the Equalized Nonresidential Valuation Factor, Income Capacity Factor, and Land Capacity Factor for each municipality to determine an Average Allocation Factor, which is the basis for municipal Prospective Need.

DCA calculated that Netcong's Average Allocation Factor was 0.24 percent. This translates to Netcong having an affordable housing obligation to provide 0.24 percent of Region 2's Prospective Need of 20,506 units or 50 units. However, based on our analysis, the Land Capacity Factor of 0.24 percent results in an





Average Allocation Factor of 0.23 percent which translates to a **Prospective Need of 47 units** not the 50 units calculated by DCA. Please see table below.

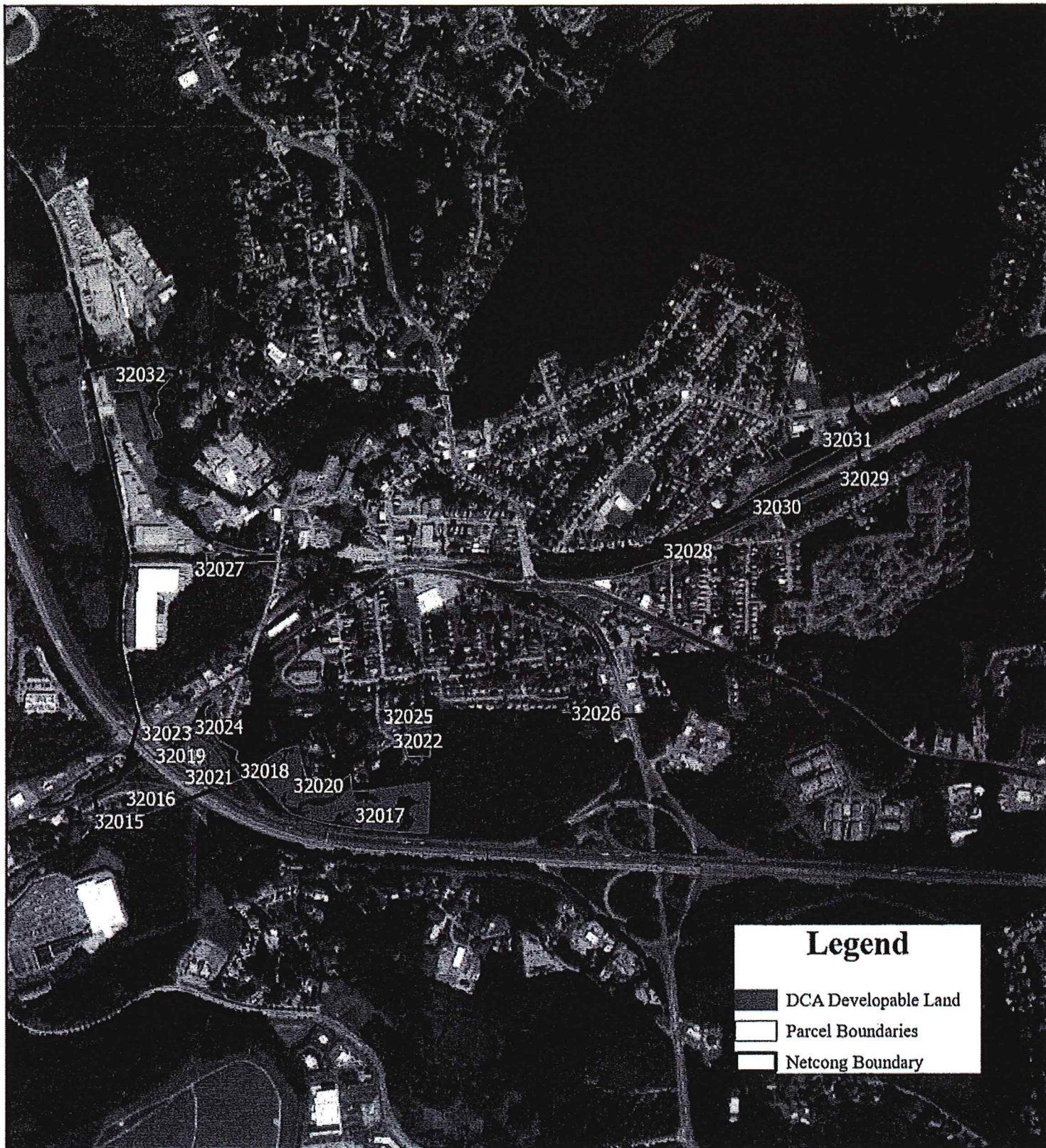
	<i>DCA CALCULATION</i>	<i>BOROUGH ESTIMATES</i>
<i>EQUALIZED NONRESIDENTIAL VALUATION FACTOR</i>	0.14%	0.14%
<i>INCOME CAPACITY FACTOR</i>	0.31%	0.31%
<i>DEVELOPABLE LAND IN REGION 2</i>	5,358 acres	5,356 acres
<i>LAND CAPACITY FACTOR</i>	0.28%	0.24%
<i>AVERAGE ALLOCATION FACTOR</i>	0.24%	0.23%
<i>REGION 2 PROSPECTIVE NEED</i>	20,506	20,506
<i>PROSPECTIVE NEED</i>	<b>50 units</b> (0.24% of 20,506 units)	<b>47 units</b> (±0.23% of 20,506 units)

***Recommendation:*** We recommend that Netcong adopt a binding resolution determining a reduced municipal Prospective Need obligation of 47 units based on a recalculation of the Land Capacity Factor to account for methodological errors as supported by the detailed analysis in Attachment A.

Attachment A: DCA Land Features  
Borough of Netcong, Morris County, NJ

ID NUMBERS AND DEVELOPABLE ACREAGE OF EACH DCA FEATURE IDENTIFIED ON BLOCK/LOT		BLOCK	LOT	PROP CLASS	LOCATION	OWNER	TOTAL DEVELOPABLE ACREAGE OF DCA FEATURES IDENTIFIED ON BLOCK/LOT	TOTAL DEVELOPABLE ACREAGE PER BOROUGH	NOTES
ID #	ACREAGE								
32031	0.291	8	32	1	PORT MORRIS RD	NRR LLC	0.291	0.291	
32028	0.097	8	35	15D	NORTH ST	ST CEASARIO SOCIETY	1.088	1.088	
32030	0.991								
32029	0.067	8	36.01	1	55 RAILROAD AVE	55 RAILROAD AVENUE HOMEOWNER ASSOC	0.067	0.000	Not developable. Detention basin for HOA.
32027	0.118	17	6	15C	23 FLANDERS RD	BOROUGH OF NETCONG	0.118	0.000	Not developable. Lot is developed with Netcong Borough Recycling Facility, designated as a community facility.
32032	1.560	17	10	1	WATERLOO RD	STORE MASTER FUNDING XXXIII LLC	1.560	1.560	
32015	0.063	20	6	1	BUDD LAKE RD	AIG BAKER MT. OLIVE L.L.C.	0.508	0.508	
32016	0.448								
32017	5.497	22	4	1	TERRACE ST	ST MICHAELS ROMAN CATHOLIC CHURCH	8.854	8.854	
32018	0.120								
32020	3.239								
32022	0.493								
32025	0.498	23	5	1	37-2 CENTER ST	MONTELLA, FELICE/ANNA C	0.498	0.498	Not developable. No longer vacant.
32019	0.062	26	11	15C	FLANDERS RD	STATE OF NJ, DOT	1.579	0.000	Not developable. N/DOT right-of-way
32021	1.206								
32023	0.149								
32024	0.162								
32026	0.096	n/a	n/a	n/a	n/a	n/a	0.096	0	Not part of Netcong's developable acreage. This parcel is Block 9301, Lot 2 in Roxbury Township. None of the parcel is assessed in Netcong.

	DCA Calculations	Borough Estimates
Total Developable Acreage	15.15	12.80
Land Capacity Factor	0.28%	0.24%
Total Estimated Prospective Need in Units	50	47



# Borough of Netcong DCA Land Capacity Analysis Parcels

Esri, CGIAR, USGS, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, OpenStreetMap contributors, and the GIS User Community, Maxar

2025

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere

