



BOROUGH OF POMPTON LAKES PASSAIC COUNTY, NEW JERSEY



Resolution No: 25-83

TITLE:

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 Pompton Lakes Borough as follows:

Present Need: 45
Prospective Need: 106

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 Consultant Sanyogita S. Chavan, AICP, PP issued a memorandum to the Borough dated January 15, 2025 containing an evaluation of the accuracy of the DCA information and calculations used to determine the municipal obligation for the Borough of Pompton Lakes. A copy of this Memorandum is attached hereto; and

WHEREAS, the Borough Planners analysis adjusted the Land Capacity Factor to 105 units, which is one unit less than the DCA's calculated obligation at 106 units. The calculation for the Land Capacity Factor was adjusted by excluding the properties that are rights-of-way owned by the NJDOT or contain the municipal pump station. This reduced the Land Capacity Factor to "0.00%" from the original "0.01%", which then reduced the total housing obligation from 106 units to 105 units; and

WHEREAS, the Borough Planner's analysis also adjusted the Non-Residential Valuation Factor by excluding utilities, utility ROW, and inappropriately classified properties from the calculations and by doing so reduced the Non-Residential Valuation Factor by one unit; and

WHEREAS, By applying both adjusted factors to the obligation calculations, the final housing obligation for Pompton Lakes decreases by two units to 104 units.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Pompton Lakes, in the County of Passaic and State of New Jersey, as follows:

1. Pompton Lakes 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: 45
Prospective Need: 104

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.

RECORD OF COUNCIL VOTE:

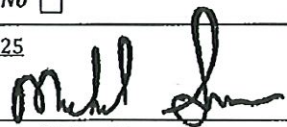
I, Elizabeth Brandsness, R.M.C., Municipal Clerk, hereby certify that the above resolution is a true copy of the resolution adopted by the Mayor and Council at their Regular Meeting held on Wednesday, January 22, 2025 at 7:30 p.m. in the Pompton Lakes Municipal Building, 25 Lenox Avenue, Pompton Lakes, N.J.

Motion - by: Hinton Second - by: Kihlberg

COUNCIL	Yes	No	Absent	Abstain	COUNCIL	Yes	No	Absent	Abstain
Cruz	✓				Kihlberg	✓			
Hinton	✓				Polidori	✓			
Kent	✓				Venin	✓			
MAYOR (Tie-Break Vote): Yes <input type="checkbox"/> No <input type="checkbox"/>									

Date of Adoption: January 22, 2025


Elizabeth Brandsness, R.M.C., Municipal Clerk


Michael Serra, Mayor

CC: Borough Administrator, Borough Attorney, Borough Affordable Housing Planner



Memorandum

TO: MICHAEL CARELLI, BOROUGH ADMINISTRATOR
CC: ROBERT OOSTDYK, ESQ., BOROUGH ATTORNEY
FROM: SANYOGITA S. CHAVAN, AICP, PP
DATE: JANUARY 15, 2025
RE: DCA 4TH ROUND OBLIGATIONS

This memorandum provides a brief overview of the DCA Fourth Round Prospective Need ("Affordable Housing Obligation") and our analysis of the DCA's methodology to calculate the same. DCA utilized three factors to calculate the obligation, namely land capacity, median income, and non-residential valuation for the region, which includes municipalities in the four counties (Bergen, Hudson, Passaic, and Sussex).

H2M evaluated the accuracy of the DCA information and identified land parcels and properties that the DCA inappropriately included in their calculations for the *Land Capacity Factor* and *Equalized Nonresidential Valuation Factor*. The DCA's Affordable Housing Obligation for Pompton Lakes is 106 units for the 2025-2035 period. In our analysis, we removed the parcels and properties that should not have been included in the DCA's calculations. This reduces the affordable housing obligations by only one (1) unit based upon the adjustment to the *Land Capacity Factor* calculations. However, adding the adjustment to the *Equalized Nonresidential Valuation Factor* to the *Land Capacity Factor* results in further reducing the Affordable Housing Obligation by one unit to 104. Our analysis, calculations, and methodology are explained below.

Housing Region

The Borough of Pompton Lakes is within *Housing Region 1* which includes municipalities in Bergen, Hudson, Passaic, and Sussex counties. A municipality's *Housing Region* is one of the most important factors in determining its final affordable housing obligation. The final affordable housing obligation is influenced by many characteristics of a *Housing Region* such as the total developable land, the change in the total households from 2010 to 2020, the total valuation of commercial and industrial properties, and the median income of the Region and of each municipality. Additionally, the municipality with the lowest median household income in a Housing Region is used to determine the *Income Floor* for a region. The *Income Floor* refers to a variable used in the *Income Capacity Factor* calculations. This is set at \$100 less than the lowest median income of all the municipalities in a *Housing Region*.

The Regional Prospective Need and the Lowest Median Income are part of calculations discussed in this memo. These are illustrated in Table 1 and 2, below.



Table 1

Regional Prospective Need Obligations by Housing Region

Housing Region	Counties	Regional Prospective Need	2010 Households - Decennial Census	2020 Households - Decennial Census	Change	Change Divided by 2.5 (Assumed Low- and Moderate- Income Household Growth)
1	Bergen, Hudson, Passaic, and Sussex	27,743	803,704	873,062	69,358	27,743
2	Essex, Morris, Unlon, and Warren	20,506	693,844	745,108	51,264	20,506
3	Hunterdon, Middlesex, and Somerset	11,604	446,114	475,123	29,009	11,604
4	Mercer, Monmouth, and Ocean	13,822	588,249	622,803	34,554	13,822
5	Burlington, Camden, and Gloucester	9,134	461,569	484,404	22,835	9,134
6	Atlantic, Cape May, Cumberland, and Salem	1,889	220,880	225,602	4,722	1,889
TOTAL		84,698	3,214,360	3,426,102	211,742	84,698

Table 2

Lowest Median Income by Housing Region

Housing Region	Lowest Median Household Income	Lowest Income Municipality in Region
1	52,092	Paterson city
2	46,360	Newark city
3	56,139	Perth Amboy city
4	44,344	Trenton city
5	36,158	Camden city
6	29,721	Penns Grove borough

Land Capacity Factor and Developable Lands Identified by the DCA

The *Land Capacity Factor* is calculated for each municipality by determining the total acreage that is developable by utilizing the most recent land use / land cover (LULC) data from the NJDEP, the most recent (2024) 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. Additionally, the determination of developable land excludes tax parcels with a property class code that did not correspond to land classified as vacant land (public or privately owned) or qualified farmland. Additionally, lands that contain environmental constraints such as wetlands and open waters were excluded from the calculations.

The legislation also requires application of “weights” to developable lands based on the planning area type to protect environmentally sensitive areas. The entirety of Pompton Lakes Metropolitan Planning Area (PA1). Therefore, the developable land in the Township is applied a weight of “1.”

In total, the DCA identified about 0.23 acres in Pompton Lakes as developable land. In Pompton Lakes, the tax parcels that are identified by the DCA as developable are itemized below in Table 3, and the maps depicting the same are included herein within Appendix A.



Table 3

Parcels Containing DCA Identified Developable Land						
Block, Lot	Property Class	Location	Property Use	Parcel Area (Acre)	DCA Developable Land Area (Acre)	% of Parcel Area that is DCA Developable Land
1000, 9	15C	State Of NJ - Dot	Right-of-Way	0.158	0.02	12%
1000, 11.01	15C	State Of NJ - Dot	Right-of-Way	0.188	0.05	26%
1000.0, 20.01	1	Tilcon New York, Inc.	Tilcon Quarry	3.543	0.08	42%
8705, 15.01	15C	Municipal Utilities Authority	Municipal Pump Station	0.194	0.08	2%
				Total Area:	0.23	

Some of these parcels are neither vacant nor developable. Table 4 analyzes the parcels that were excluded resulting in an adjusted *Land Capacity Factor*.

Table 4

Block, Lot	Property Class	Location	DCA Developable Land Area (Acre)	Property Use / Comments
1000, 9	15C	State Of NJ - Dot	0.02	Owned by NJDOT, Right-of-Way
1000, 11.01	15C	State Of NJ - Dot	0.05	Owned by NJDOT, Right-of-Way
8705, 15.01	15C	Municipal Utilities Authority	0.08	Municipal Pump Station
		Total Area:	0.15	

As noted in the above table, out of the 0.23 acres of land identified by the DCA, 0.15 acres are rights-of-way owned by the New Jersey Department of Transportation and a property that contains the municipal pump station.

The DCA also identified developable land within Block 1000.01, Lot 20.01. This parcel is a forested lot located within the Tilcon Quarry tract. The tract, zoned R-6, was included in the Borough's 2019 Housing Element and Fair Share Plan. As such, this parcel was not excluded from the Land Capacity factor calculations.

We adjusted the calculation for the Land Capacity Factor by excluding the properties that are rights-of-way owned by the NJDOT and contain the municipal pump station. **This reduced the *Land Capacity Factor* to "0.00%" from the original "0.01%," which then reduces the total housing obligation from 106 units to 105 units.**



Equalized Non-Residential Valuation Factor

The *Equalized Non-Residential Valuation (NR Valuation)* measures the change in valuation of commercial and industrial properties between 1999 and 2023. The Affordable Housing Law requires that “changes in nonresidential property valuations in the municipality, since the beginning of the round preceding the round being calculated, shall be calculated using data published by the Division of Local Government Services in the department.” As such, the beginning of the preceding round was determined to be 1999.

The NR Valuation Factor as calculated by the DCA for Pompton Lakes is 0.37%. However, there are properties that should not have been included in the DCA Calculations. We compared the DCA valuation of commercial and industrial properties to valuations provided by NJ Property Fax. The DCA *NR Valuation* calculations included utilities, utility right-of-way (ROW), and other non-commercial properties that were inappropriately classified as commercial properties. We also reviewed the 1999 and 2023 industrial property valuations to find that none of those were inappropriately classified as industrial properties.

As per the DCA calculations, the 2023 commercial valuation for Pompton Lakes was \$102,620,300 and the 2023 industrial valuation was \$36,576,100. The 1999 commercial valuation was \$52,061,600 and the 1999 industrial valuation was \$20,570,300. In our analysis, parcels containing non-commercial uses, easements, and utilities/utility ROW were excluded from this calculation. This reduced the 2023 commercial valuation to \$98,773,500 and the 1999 commercial valuation was reduced to \$51,748,000. The industrial valuation for 1999 and 2023 remained unchanged. **Per our analysis, the NR Valuation Factor reduced slightly to 0.36%. This further reduces Pompton Lakes’ obligation by one unit to 104 units.**

The properties that were removed from the DCA *NR Valuations* calculations is noted in Table 5.

Table 5

Commercial Properties that can be Excluded from Equalized Nonresidential Valuation Factor in Pompton Lakes			
Block, Lot	Location	Current Owner	Total Value
2023 Commercial Land Use			
600, 9	148 Cannonball Road	Jcp Co. C/O Fe Service Tax Dept.	\$191,900.00
1000, 3.03	Gas Line	Algonquin Gas C/O Duff & Phelps	\$647,400.00
1000, 4.03	Gas Line	Texas Eastern C/O Duff & Phelps	\$100,600.00
6702, 46	Tower Road	Mua C/O George Decker	\$1,026,000.00
6702, 46	Tower Road	Municipal Utilities Authority	\$1,858,800.00
12400, 3.01	Exit W/S Pking Lot	Easement To Wanaque LLC C/O Rooney	\$22,100.00
1999 Commercial Land Use			
1000, 3.03	Gas Line	Algonquin Gas Trans Co	\$260,300.00
1000, 4.03	Gas Line	Texas Eastern Trans Corp	\$41,300.00
12400, 3.01	Exit W/S Pking Lot	Pompton Lakes Chamber of Commerce	\$12,000.00
1000, 3.03	Gas Line	Algonquin Gas Trans Co	\$260,300.00
1000, 4.03	Gas Line	Texas Eastern Trans Corp	\$41,300.00



We evaluated a property containing a cell tower, which is identified as Block 1000, Lot 3.01, and is located on 2 Federal Hill. This property, as per the Borough, is owned by Cablevision/Altice USA. This property is classified as 4A-Commercial. This includes offices and the existing tower on site. Therefore, this property was not excluded and continues to be on the list.

The NR Valuation Factor is determined by dividing the change in a municipality's equalized nonresidential valuation between 1999 and 2023 by the total change in the equalized nonresidential valuation for a municipality's housing region. The total change in equalized non-residential valuation for Housing Region 1 is \$32,549,128,394. Once we remove the non-commercial properties from this calculation, the change in the equalized non-residential valuation for Housing Region 1 decreases to \$32,543,903,495.

By removing utilities, utility ROW, and non-commercial properties from the calculations, the NR Valuation Factor decreases to 0.36%. Upon applying the adjusted NR Valuation and the adjusted Land Capacity Factor from the calculations, the obligation further reduces by one unit to 104 units.

Income Capacity Factor

The Affordable Housing Law requires calculation of an *Income Capacity Factor*, which measures the extent to which a municipality's income level differs from that of the lowest-income municipality in its Housing Region. The income capacity factor is based on 2022 American Community Survey 5-Year Estimates (2018-2022). This is calculated at the regional level and is based upon the census data. **As such, the *Income Capacity Factor* shall remain the same at 0.76%.**

Average Allocation Factor

The *Average Allocation Factor* is the average of the *Equalized Nonresidential Capacity Factor*, *Land Capacity Factor*, and *Income Capacity Factor*. This is then used as one of the final factors determining the prospective need obligation for Pompton Lakes. **The DCA calculated each the *Average Allocation Factor* as 0.38%**, which is the average of the NR Valuation Factor at 0.37%, the Land Capacity factor at 0.01%, and the income capacity factor at 0.76%.

With our calculations, the Average Allocation Factor reduces to 0.37%. This is the average of the reduced NR Valuation Factor at 0.36%, the reduced land capacity factor at 0.00%, and the same income capacity factor as calculated by the DCA at 0.76%.

Prospective Need Calculation

The final Prospective Need Obligation is determined by calculating the change in households between the 2010 Decennial Census and 2020 Decennial Census. Then the change in households is divided by the assumed household growth to determine the regional affordable housing obligation. Finally, the municipal prospective need is calculated by multiplying the average allocation factor by the regional prospective need and the regional adjustment factor. Please note that the *Regional Adjustment Factor* is included to prevent rounding errors and ensures that the summed total of all municipalities' prospective need obligations equals the regional obligations exactly.

As such, our calculations for the housing obligation differ from the DCA calculation in that the *Average Allocation Factor* at 0.36% is lower than DCA's at 0.38%.

The regional obligation and the income capacity factor have a significant influence on Pompton Lakes' affordable housing obligation. We cannot alter the regional housing obligation or the income capacity as the methodology for this calculation is explicitly outlined in § P.L.2024, c.2. which provides the framework for the DCA calculations.



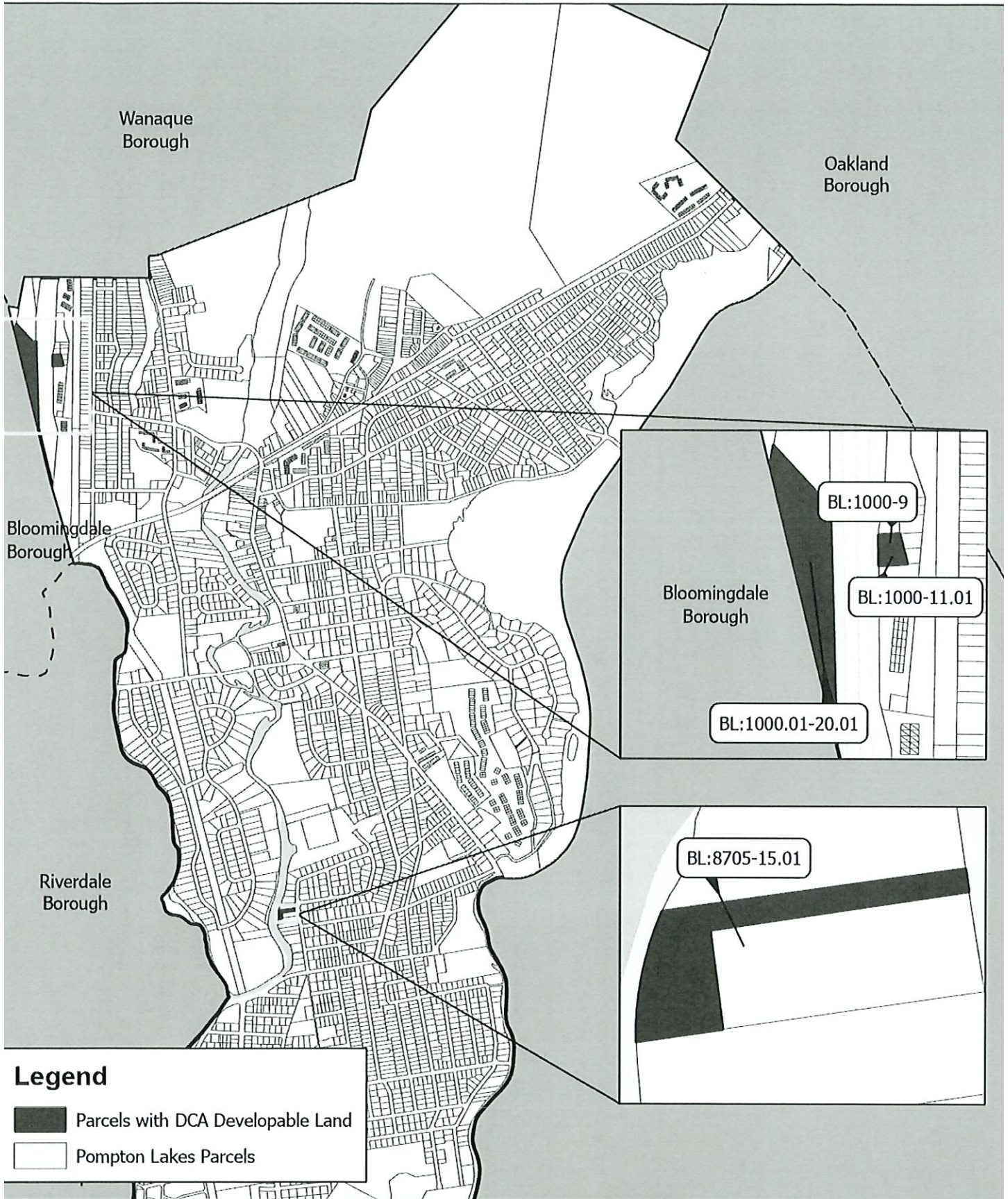
Conclusion

Our calculation for Pompton Lakes' affordable housing obligation, by adjusting the land capacity factor is **105 units**, which is **one unit less** than the DCA's calculated obligation at **106 units**. Upon adjusting the *NR Valuation Factor* by excluding utilities, utility ROW, and inappropriately classified properties from the calculations, the *NR Valuation Factor* decreases by one unit. By applying the adjusted factor to the obligation calculations, the final housing obligation for Pompton Lakes' would ultimately decrease by two units to **104 units**. The *Income Capacity Factor* or the *Regional Prospective Need/Regional Housing Obligation* cannot be adjusted as this determination is based upon the legislation.

As previously discussed, the Borough must adopt a resolution before January 31, 2025, stating its Fourth Round Affordable Housing Obligation. The resolution should either state DCA's 106 units or the units utilizing the amended *Land Capacity Factor* and *Equalized Non-Residential Valuation Factor*. Should the Township want to pursue the route of claiming its obligation to be 104 units, it may be challenged. However, the removal of properties that are NJDOT rights-of way and lands that contain municipal utilities from the *Land Capacity Factor* calculations would be facially consistent with the statutory Fourth Round methodology.

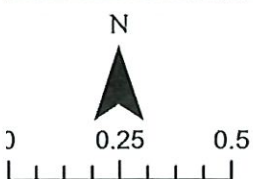


APPENDIX A



Legend

- Parcels with DCA Developable Land
- Pompton Lakes Parcels

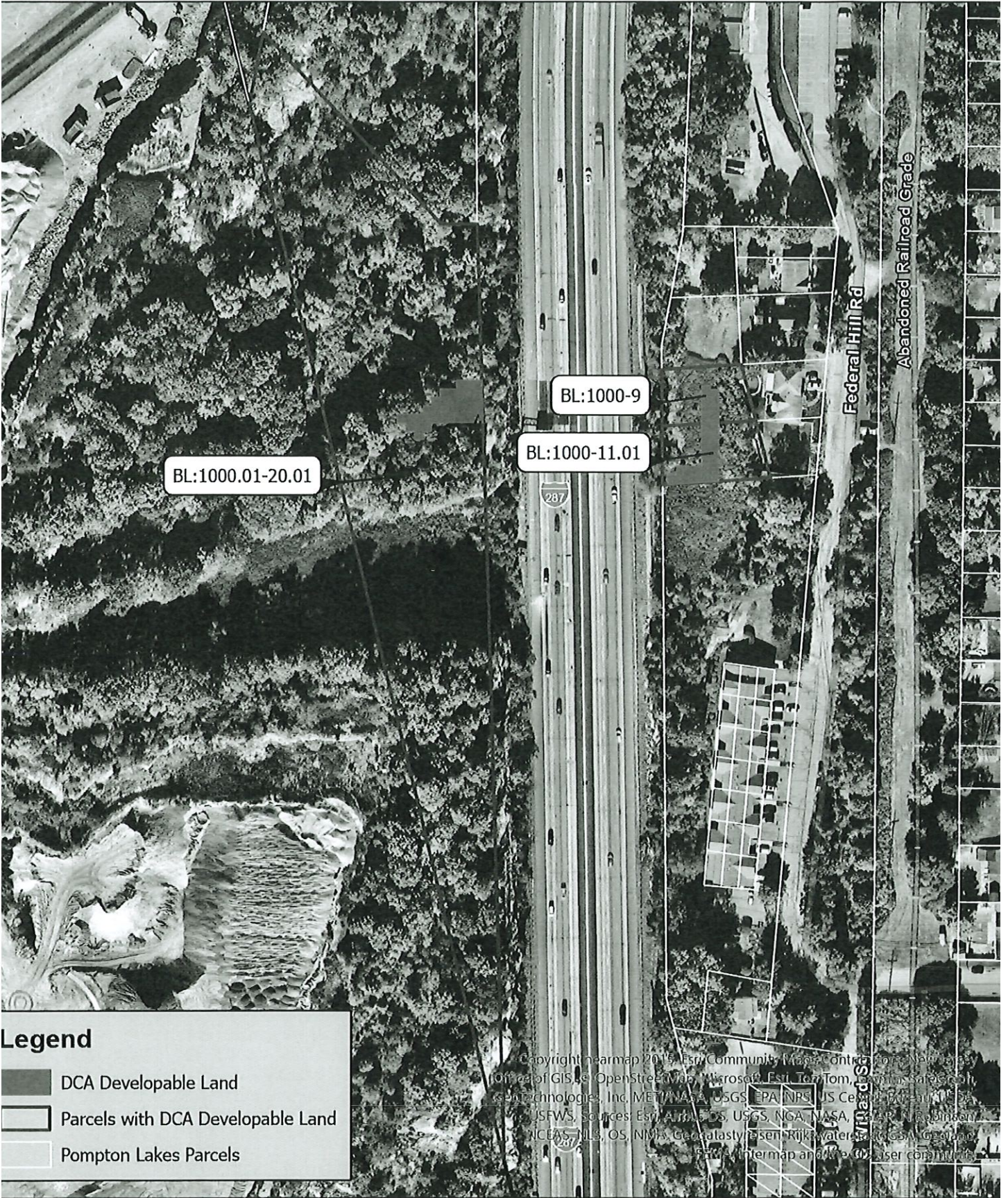


Pompton Lakes
DCA Developable Land
Fourth Round Obligations



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Legend

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Pompton Lakes
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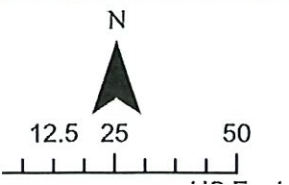
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**Pompton Lakes
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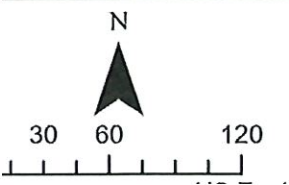
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