

2017 Master Plan Reexamination & Master Plan Amendment

Township of Mahwah

March 2017

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Township of Mahwah

Bergen County, New Jersey

Prepared by:



Darlene A. Green, P.P., AICP

NJ License # 33LI00611400



Maser Project No. MWT-014

The original of this report was signed and sealed in accordance with N.J.S.A. 45:14A-12.

Contents

1) Introduction	3
2) Problems & Objectives Related to the 2012 Reexamination	4
3) Extent That Problems & Objectives Have Changed Since 2012	4
4) Extent of Changes in Policies & Objectives Forming the Basis of the 2012 Reexamination Report	5
5) Changes Recommended for the Master Plan or Development Regulations	10
6) Recommendations Concerning the Incorporation of Redevelopment Plans	11
7) Master Plan Amendment	11

1) Introduction

The Township of Mahwah is located in Bergen County and encompasses roughly 26.7 square miles. Mahwah's development is suburban in character east of U.S. Highway 202 but largely undeveloped west of U.S. 202. The Township has exceptionally good access to major roads such as Interstate 287, U.S. Highway 202 and NJ State Highway 17. Interstate 287 has one interchange within Mahwah, Exit 66. The Township is part of the Main/Bergen County rail lines operated by New Jersey Transit and has one stop located along East Ramapo Avenue. Mahwah is surrounded by the Village of Suffern in New York, Upper Saddle River Borough, Ramsey Borough, Allendale Borough, Wyckoff Township, Franklin Lakes Borough, Oakland Borough and Ringwood Borough.

The purpose of this report is to specifically focus on the protection of Mahwah's drinking water, which has some impacts on specific land uses.

The New Jersey Municipal Land Use Law, N.J.S.A. 40:55 D-1 et seq. stipulates that each municipality in the State of New Jersey shall reexamine its Master Plan and development regulations at least every ten years. Specifically, N.J.S.A. 40:55D-89 states:

"The governing body shall, at least every ten years, provide for a general reexamination of its Master Plan and development regulations by the Planning Board, which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the County Planning Board. A notice that the report and resolution have been prepared shall be sent to the municipal clerk of each adjoining municipality."

This reexamination of the Township of Mahwah conforms to the requirements of the Municipal Land Use Law and addresses the requirements of N.J.S.A. 40:55D-89 by including the following:

- A. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
- B. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
- C. The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for such plan or regulations as last revised, with particular regard to the density and distribution of population and land resources, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in State, County and municipal policies and objectives.
- D. The specific changes recommended for the Master Plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.
- E. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law", P.L. 1992, c.79 (C.40A:12A-1 et seq.) into the land use plan element of the municipal Master Plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

While the Municipal Land Use Law requires a general reexamination of the Master Plan and development regulations every ten years, reexaminations can be more frequent than once every ten years. It can be as frequent as an individual municipality believes it to be warranted.

It is important that a Master Plan be kept up to date and flexible so that it can respond to changing conditions and reflect the best current thinking on land use issues. The Master Plan should be a document that is easily amended

so that it can respond to both concerns and opportunities. A review once every ten years is adequate in some communities, while for other municipalities more frequent review is called for.

A review of Mahwah's master planning documents reveals that the Township's last reexamination report was adopted on March 26, 2012. The report is titled 2012 Master Plan Reexamination Report. The aforementioned requirements of the Municipal Land Use Law are addressed in the sections of this report that follow.

Three of the goals of the Township's 2013 Comprehensive Master Plan were related to drinking water. The first goal was to protect the health, safety and welfare of the Township of Mahwah's residents. The second goal was to ensure a supply of safe and healthful drinking water. The third goal was to protect the groundwater resources that provide water to potable water supply wells. Since the 2013 document, the Township has had growing concern over the protection of the groundwater resources that supply Mahwah's homes and businesses. This report specifically focuses on the protection of the Township's drinking water.

2) Problems & Objectives Related to the 2012 Reexamination

This section of the report examines the major problems and objectives relating to land development in Mahwah Township that were included in the 2012 Master Plan Reexamination Report ("2012 Reexamination"). Problems and objectives noted in 2012 are as follows:

1. **Changes to the Master Plan.** The Planning Board recommended that the Township adopt specific changes to the Township Master Plan. These changes included "modifications to the underlying objectives, policies and standards, all as outlined in detail, in the draft Highlands Preservation and Planning Area Master Plan Element approved by the Highlands Council as part of the Township's Petition for Plan Conformance".
2. **Adopt Highlands Land Use Ordinance.** The Planning Board recommended that the Township adopt the changes found in the draft document entitled, Township of Mahwah Highlands Preservation Planning Area Land Use Ordinance, which was approved by the Highlands Council as part of the Township's Petition for Plan Conformance. This ordinance would implement the objectives, policies and standards outlined in the Highlands Preservation and Planning Area Master Plan Element.

3) Extent That Problems & Objectives Have Changed Since 2012

This section of the report looks at the extent to which problems and objectives have been reduced or increased since 2012. The two issues listed in Section 2 are summarized below, along with a 2017 status evaluation.

1. **Changes to the Master Plan.** Since the 2012 Reexamination, Mahwah has not adopted the Highlands Preservation and Planning Area Master Plan Element.
2. **Adopt Highlands Land Use Ordinance.** Since the 2012 Reexamination, Mahwah has not adopted the draft Land Use Ordinance that was approved by the Highlands Council.

4) Extent of Changes in Policies & Objectives Forming the Basis of the 2012 Reexamination Report

The third step in the reexamination process, known as Section "C", reviews the extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the Master Plan or changes in State, County and municipal policies and objectives. The following sections detail demographic changes, as well as any changes that have occurred at the State, county or municipal level.

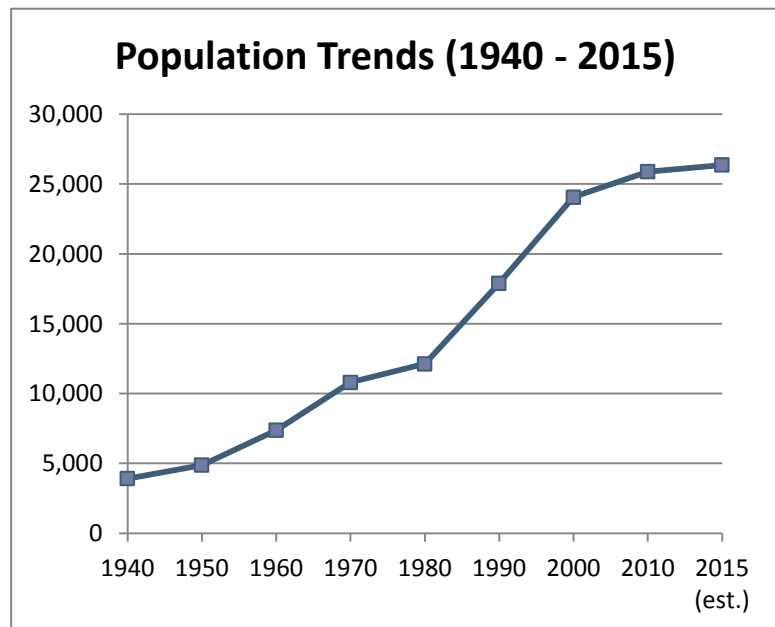
Demographic Changes

The sections below show historic trends and the most recent Census information.

The population of Mahwah has been increasing since 1940, growing from 3,908 in 1940 to 26,368 in 2015. The decade which saw the largest increase was the 2000's when the Township grew by 6,157 residents or 34.4%. The 1990's, 1970's and 1960's also saw large population growth. In recent years, the population growth has slowed (1.8% according to the 2015 ACS estimates), but has yet to decline over a ten year period. The table below shows the population of the Township between 1940 and 2010.

HISTORICAL POPULATION TRENDS		
Year	Population	Change
1940	3,908	-
1950	4,880	24.9%
1960	7,376	51.1%
1970	10,800	46.4%
1980	12,127	12.3%
1990	17,905	47.6%
2000	24,062	34.4%
2010	25,890	7.6%
2015 (est.)	26,368	1.8%

2010 Census, 2015 ACS &
<http://lwd.doi.state.nj.us/labor/lpa/census/2kpub/njsdcp3.pdf>



The North Jersey Transportation Planning Authority ("NJTPA"), which is the regional planning agency for northern New Jersey, projects that the Township will grow to 29,390 residents by the year 2040.¹ In order for that to occur, Mahwah would need to gain 3,022 residents over the next 25 years, which translates to roughly 121 new residents annually. A population of 29,390 residents is unlikely; since adding over 3,000 residents would require hundreds of housing units to be constructed. Presently, the Township has limited vacant and developable land in the Highlands Planning Area, so the construction of hundreds of new housing units is doubtful.

Age Distribution of Population

In 2010, 25.8% of Mahwah's population was under 20 years of age, while 20% of the population was 60 years or older. This represents an increase in the senior population from 2000 when persons 60 years or older composed 15.4% of the total population. Moreover, the percentage of the population aged 19 or younger has slightly

increased since 2000, when the age group comprised 25.5% of the Township's total population. The table below shows the 2010 age distribution of Mahwah's population.

Mahwah's median age was 40.4 in 2010, an increase from 37.3 in 2000. The 2015 estimated median age is 40.2.

AGE DISTRIBUTION (2010)		
Age (Years)	Number of Residents	Percentage of Residents
Under 5 Years	1,081	4.2%
5 to 9 years	1,398	5.4%
10 to 14 years	1,668	6.4%
15 to 19 years	2,540	9.8%
20 to 24 years	2,642	10.2%
25 to 34 years	2,182	8.4%
35 to 44 years	3,081	11.9%
45 to 54 years	4,399	17.0%
55 to 59 years	1,740	6.7%
60 to 64 years	1,481	5.7%
65 to 74 years	2,070	8.0%
75 to 84 years	1,230	4.8%
85 years and over	378	1.5%
Total	25,890	100.0%

2010 Census Table DP-1

Households

In 2010 there were a total 9,505 occupied households within Mahwah. Of that total, 30.1% were one-person households. Two-person households comprised 32.2% of all households. Therefore, more than 60% of Mahwah's households were occupied by one- and two-person households. Four or more person households encompassed 22.5% of the Township's households.

HOUSEHOLD SIZE (2010)		
Size	Number of Households	Percentage of Households
1-person	2,858	30.1%
2-person	3,057	32.2%
3-person	1,451	15.3%
4 or more persons	2,139	22.5%
Total	9,505	100.0%

2010 Census Table H13

Household Income

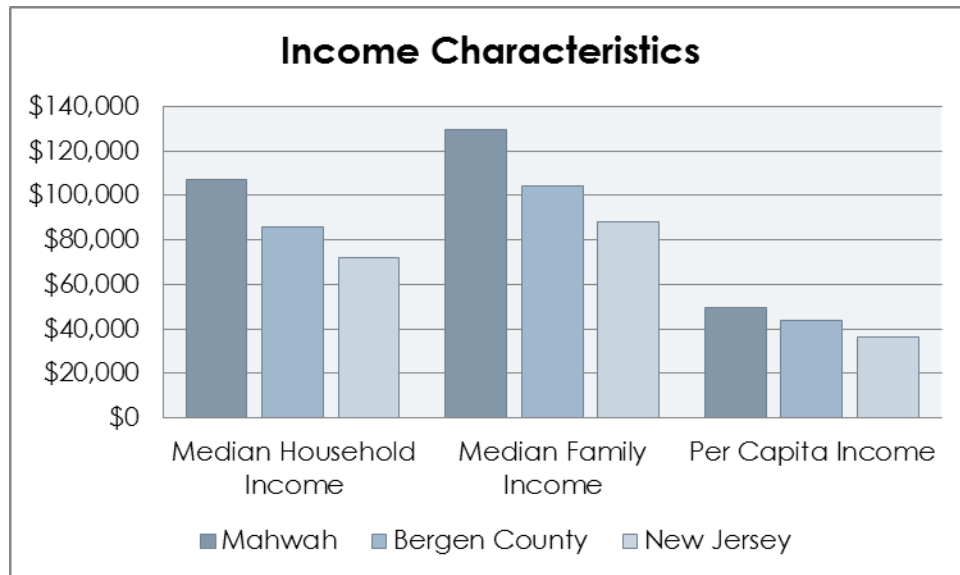
The Census has yet to release 2010 data on household income, family income or per capita income. Therefore, the 2011-2015 American Community Survey (“ACS”) Four-Year Estimates were relied upon. In order to understand how Mahwah ranks, the table below compares the Township to the County as well as the State. The ACS estimates that Mahwah had a median household income of \$107,336 in 2015. This is much greater than both the County and the State. The Census defines household income as “the sum of the income of all people 15 years and older living in the household. A household includes related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit, is also counted as a household”.²

The Township had a median family income of \$129,446 in 2015. The Census defines median family income as “the sum of the income of all family members 15 years and older living in the household. Families are groups of two or more people (one of whom is the householder) related by birth, marriage, or adoption and residing together; all such people (including related subfamily members) are considered as members of one family”.³

Mahwah residents are estimated to have a higher per capita income than the County and State in 2015. As shown in the table, Mahwah’s per capita income is estimated at \$49,761, while the County is estimated at \$44,002 and the State at \$36,582.

INCOME CHARACTERISTICS (2015 est.)			
	Mahwah	Bergen County	New Jersey
Median Household Income	\$107,336	\$85,806	\$72,093
Median Family Income	\$129,446	\$104,286	\$88,335
Per Capita Income	\$49,761	\$44,002	\$36,582

This data is an estimate provided by the American Community Survey.



Housing Occupancy & Tenure

In 2010 Mahwah contained 9,868 housing units. As the table on the following page shows, a total of 9,505 units or 96.3% were occupied in 2010. Of the 363 vacant units, 68 were for sale and 58 were for rent. Seasonal units comprised of 101 of the vacancies.

The Township has a fairly stable owner-occupied housing stock. As shown by the table below, 84.1% of the Township's housing stock was owner-occupied in 2000. This decreased marginally to 82.5% in 2010. Renter-occupied households have increased to 17.5% of the occupied housing stock.

HOUSING OCCUPANCY (2010)		
Housing Units	Number of Units	Percentage of Units
Occupied units	9,505	96.3%
Vacant units	363	3.7%
<i>For rent</i>	58	0.59%
<i>Rented, not occupied</i>	8	0.08%
<i>For sale</i>	68	0.69%
<i>Sold, not occupied</i>	23	0.23%
<i>Seasonal use</i>	101	1.02%
<i>Other Vacant</i>	105	1.06%
Total	9,868	100.0%

2010 Census Tables DP-1

HOUSING TENURE (2000 vs. 2010)				
Occupied Units	2000 Number	2000 Percentage	2015 Number	2015 Percentage
Owner-occupied	7,858	84.1%	7,839	82.5%
Renter-occupied	1,482	15.9%	1,666	17.5%
Total	9,340	100.0%	9,505	100.0%

2010 Census Tables DP-1

Land Use

The Township of Mahwah has variety of land uses and buildings that give the community its distinct character. Nearly 10,000 parcels make up Mahwah. The chart on the following page illustrates all the land uses within the Township and their related total value in 2016. In 2016, a total of 93.1% of the parcels in Mahwah were residential and had a total value of more than \$4.3 billion. Residential property values were 77.1% of the total property value within the Township. Commercial properties comprised 14% of the Township's total value, but only 1.6% of all parcels. There were 80 industrial properties (0.8%) in 2016, which had a value of more than \$339 million (6%). Finally, vacant properties comprised 4.1% of all lots and 1.7% of all parcel value.

LAND USE (2016)				
Land Use Class	# of Parcels	Percentage	Total Value	Percentage
Vacant	406	4.1%	\$99,182,100	1.7%
Residential	9,263	93.1%	\$4,386,777,000	77.1%
Apartment	8	0.1%	\$49,592,700	0.9%
Farm Homestead	13	0.1%	\$14,118,400	0.2%
Farmland	21	0.2%	\$422,000	0.0%
Commercial	162	1.6%	\$797,400,700	14.0%
Industrial	80	0.8%	\$339,170,900	6.0%
Total	9,953	100.0%	\$5,686,663,800	100.0%

http://www.nj.gov/dca/divisions/dlgs/resources/property_tax.html

State Changes

There has been one major policy change at the state level since the 2012 Master Plan Reexamination Report was adopted. On March 10, 2015, the Supreme Court ruled that the New Jersey Council on Affordable Housing ("COAH") has failed to act and as a result, the Courts will be assuming jurisdiction over the Fair Housing Act. The Order divided municipalities into one of three categories – those that achieved Third Round Substantive Certification, those that filed or petitioned COAH and those that had never participated in the COAH process.

The Order permitted towns to file a Declaratory Judgment during a 30-day window (approximately June 8 – July 8, 2015) to alert the Court that the municipality wishes to comply with its constitutional mandate to provide affordable housing. Mahwah was proactive and filed its Complaint for Declaratory Judgment on July 8, 2015. The Township's case was assigned to Judge Meehan, who sits in Hackensack. On August 26, 2015 Judge Meehan issued an Order Granting Mahwah Temporary Immunity and allowed Crossroads Developers Associates and Garden Crossroad, LLC to file an answer in the matter. This was followed by a second Order awarding an extension of immunity on February 18, 2016 through April 12, 2016. Immunity has since been extended numerous times and currently is extended through April 30, 2017.

The Court has assigned a Special Master, Michael Bolan, to oversee and review Mahwah's compliance mechanisms. The Township has attended multiple case management conferences and mediation sessions to discuss Mahwah's obligation, existing credits and the proposed development concepts of the intervenors.

On January 18, 2017, the Supreme Court ruled that there is a "gap period" obligation for the period of time between 1999 and 2015. However, the Court stated that the gap obligation is part of the Present Need (also referred to as Rehabilitation Obligation). The ruling states that the households that formed during the "gap period" must be calculated to determine if those households still exist in the State. Furthermore, the obligation shall not include persons who are deceased, who are income-ineligible or otherwise are no longer eligible for affordable housing, or whose household may be already captured through the historic practice of surveying for deficient housing units within the municipality. Each vicinage judge shall be responsible for determining the "gap period" obligation.

The Township is awaiting Judge Meehan to make a decision regarding methodology, obligations and compliance mechanisms. A date has not yet been set for a trial on these issues. Until these decisions are made, the Township must continue to act in good faith and rely on sound planning to appropriately locate affordable housing within the community.

County Changes

Since the [2012 Master Plan Reexamination Report](#) was adopted, the County has adopted a Bicycle and Pedestrian Plan entitled 2015 Central Bergen Bicycle and Pedestrian Plan. The Township of Mahwah was not in the focus area defined by the Plan.

Municipal Changes

In 2011, the Highlands Council prepared an Environmental Resource Inventory (“ERI”) for the Township of Mahwah. The document contains a number of sections, which discuss various resources. One section focuses on the importance of wellhead protection to ensure safe drinking water is supplied to the residents of the Township since ground water is their sole source of drinking water. According to the ERI, a primary goal of the Township is, “To protect the health, safety, and welfare of Mahwah residents and to ensure a supply of safe and healthful drinking water and to protect ground water resources that provide water to potable water supply wells”. The ERI recommended the adoption of a Wellhead Protection Ordinance to achieve the Township’s goal.

The [2013 Comprehensive Master Plan](#) also notes the importance of groundwater supplies and indicates that there are 17 public community water supply wells within the Township of Mahwah. The three primary goals related to groundwater are:

- To protect the health, safety and welfare of the Township of Mahwah’s residents.
- To ensure a supply of safe and healthful drinking water.
- To protect the groundwater resources that provide water to potable water supply wells.

Since the 2011 and 2013 planning documents, the policies and objectives forming the basis for Mahwah’s Master Plan and development regulations as they relate to drinking water have not changed appreciably. However, concern regarding potential groundwater contamination (and, therefore, drinking water contamination) has grown.

There were no changes to the zoning and development regulations since the adoption of the 2011 and 2013 planning documents to protect the Township’s drinking water supply. Mahwah recognizes that it needs to be proactive and protect the community’s drinking water supply. Recommended ordinance changes are detailed in Section 5.

5) Changes Recommended for the Master Plan or Development Regulations

This section of the report looks at specific changes that are recommended for the Master Plan or existing development standards, which can include the underlying objectives, policies and standards. The following recommendations are made.

Adopt a Wellhead Protection Ordinance

Presently, land use within the Township is determined by what is permitted within the zoning district. However, there are certain types of land uses and/or facilities that have been deemed by the New Jersey Safe Drinking Water Act regulations (N.J.A.C. 7:10-11.4(a)4 and 5) as potential pollutant sources, which may contaminate wellheads. The Act divides potential pollutant sources into two categories – minor and major. Major pollutant sources include, but are not limited to, landfills, dry cleaning facilities, salt storage facilities and automotive service stations. Minor pollutant sources include, but are not limited to, sanitary sewer lines, septic tanks or leaching fields and stormwater detention/retention basins.

According to the ERI prepared by the Highlands Council there are a total of 27 water supply wells within the Township. Of this total, 16 are Public Community Water Supply wells (eight of which are located in the Planning Area) and 11 are Public Non-community Water Supply Wells. The map on page 12 is from the ERI and illustrates the wells and their Wellhead Protection Areas.⁴

Wellhead Protection Areas (“WHPAs”) delineate the horizontal extent of ground water captured by pumping at a specific rate and are categorized by the amount of time it will take for ground water to flow to the well. Below are the descriptions of each tier of travel time found in the ERI.⁵

- Tier 1 is a two-year time of travel to reflect the potential for bacterial and viral contaminant movement.
- Tier 2 is equivalent to a five-year time of travel based upon limitations on technological options for preventing long-lived contaminants from reaching a well without interfering with well function.
- Tier 3 is equivalent to a twelve-year time of travel, the longest times of travel customarily seen in New Jersey for plumes of long-lived contaminants.

As illustrated by the map on page 12, the WHPAs encompass a significant portion of the Township’s Planning Area, which is almost fully developed. Therefore, it is important to regulate land uses within these WHPAs to protect the numerous wells that serve the community from potential contamination.

This Reexamination Report recommends that a Wellhead Protection Ordinance be prepared and adopted. The ordinance should:

- Describe potential pollutant sources consistent with the New Jersey Safe Drinking Water Act regulations.
- Limit and/or prohibit potential pollutant sources associated with certain land uses and/or facilities within specific WHPA tiers.
- Provide an application process and detail submission requirements.

6) Recommendations Concerning the Incorporation of Redevelopment Plans

This section contains recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law”, P.L. 1992, c.79 (C.40A:12A-1 et seq.) into the land use plan element of the municipal Master Plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

There are currently no recommendations regarding redevelopment plans.

7) Master Plan Amendment

This section seeks to amend the Township’s Master Plan, specifically the Land Use Plan Element.

Land Use Plan Element

This section focuses on a specific recommendation that amends the Township’s Land Use Plan Element. As discussed throughout this report, the Township wishes to be proactive in its land use planning and protect the numerous wells within Mahwah that provide drinking water. The following section describes the recommended changes to the Land Use Plan Element.

Township of Mahwah
Highlands Environmental Resource Inventory

Figure 23: Wellhead Protection Areas



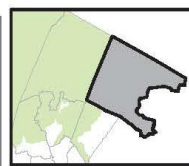
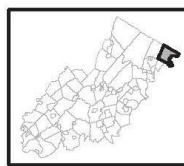
- Public Community Wells
- Public Non-Community Wells

Wellhead Protection Areas

- 2-Year Tier
- 5-Year Tier
- 12-Year Tier

- Preservation Area
- Municipal Boundaries

Mahwah Township



1 inch = 0.948 miles



April 2012

Wellhead Protection Ordinance

The Township believes it is of the utmost importance to protect Mahwah's drinking water supplies. In an effort to protect the wellheads from potential contamination it has been recommended that a Wellhead Protection Ordinance be drafted and adopted. The ordinance will limit certain types of land uses and facilities that have the potential to contaminate the wells that provide drinking water to the Township's residents and those who work within Mahwah's borders.

The Wellhead Protection Ordinance will limit and/or prohibit land uses and/or facilities that have been deemed by the New Jersey Safe Drinking Water Act regulations as potential pollutant sources, which may contaminate wellheads. The Act divides potential pollutant sources into two categories, known as major and minor. The Ordinance will define the land uses and/or facilities that fall into each category and limit and/or prohibit major and minor pollutant sources based on the WHPA tier. Therefore, it is possible that the Township's Zoning Ordinance permits a certain type of land use in a particular zone, however, if that land use is prohibited under the Wellhead Protection Ordinance as the use is located in a Tier 1 WHPA, then the use will be prohibited, despite the Zoning Ordinance. Essentially, the Wellhead Protection Ordinance will supersede the underlying zoning regulations regarding use.

Summary

The Wellhead Protection Ordinance has the ability to advance all three goals related to groundwater supplies as outlined in the 2013 Comprehensive Master Plan. The goals that will be advanced by the adoption of this ordinance are as follows:

- To protect the health, safety and welfare of the Township of Mahwah's residents.
- To ensure a supply of safe and healthful drinking water.
- To protect the groundwater resources that provides water to potable water supply wells.

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Endnotes:

¹<http://www.njtpa.org/Data-Maps/Demographics/Forecasts.aspx>

² https://www.census.gov/glossary/#term_HouseholdIncome

³ https://www.census.gov/glossary/#term_FamilyIncome

⁴http://www.nj.gov/njhighlands/bergen_county/mahwah/adopted/TASK_2_051712MahwahTownship_adopted_Environmental_Resource_Inventory.pdf, page 66.

⁵http://www.nj.gov/njhighlands/bergen_county/mahwah/adopted/TASK_2_051712MahwahTownship_adopted_Environmental_Resource_Inventory.pdf, page 33.