

2012 MASTER PLAN REEXAMINATION REPORT

TOWNSHIP OF MAHWAH
Bergen County, New Jersey



FEBRUARY 27, 2012

ADOPTED BY THE PLANNING BOARD: MARCH 26, 2012

Prepared by:

David G. Roberts, AICP, PP, LLA, RLA,



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

TOWNSHIP OF MAHWAH PLANNING BOARD

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**TOWNSHIP OF MAHWAH
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Introduction

1. The New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-1 et seq.) provides that each municipality within the State of New Jersey periodically reexamine its Master Plan policies and assumptions, and its zoning restrictions and site plan and subdivision regulations, and prepare and adopt by resolution, a report on the findings of such reexamination. The Reexamination Report must include the following components (N.J.S.A. 40:55D-89): The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
2. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
3. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.
4. 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.
5. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," 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.

The current Township of Mahwah Master Plan was adopted by the Planning Board pursuant to Article 3 of the MLUL (N.J.S.A. 40:55D-28) on August 28, 1989. The Board subsequently adopted amendments to the Master Plan in September 1995, September 2001 and June 2007 affecting the following Master Plan Elements, respectively: Land Use Element and Housing and Fair Share Plan Element.

Since the time of adoption of the last amendment to the Master Plan, the assumptions, policies, and objectives upon which the Master Plan is based have changed by virtue of:

- (a) The enactment of the Highlands Water Protection and Planning Act (“Highlands Act,” N.J.S.A. 13:20-1 et seq.) by the State Legislature on August 10, 2004;
- (b) The adoption of the Highlands Regional Master Plan by the Highlands Water Protection and Planning Council (“Highlands Council”) on July 17, 2008, which became effective on September 8, 2008;
- (c) The requirement of the Highlands Act that municipal Master Plans and regulatory provisions be brought into alignment with the Highlands Regional Master Plan for lands located within the Highlands Preservation Area;
- (d) The authorization within the Highlands Act for voluntary municipal Master Plan and regulatory conformance with the Highlands Regional Master Plan with respect to lands located within the Highlands Planning Area; and
- (e) The affirmative decision of the Township of Mahwah Governing Body to conform to the Highlands Regional Master Plan for municipal lands located in the Preservation Area, as set forth by Resolution No. 139-09A adopted on December 3, 2009 and for lands in the Planning Area, and as set forth by Resolution No. 140-09A adopted on December 3, 2009.

Accordingly, the Planning Board has reexamined the Township Master Plan and development regulations to determine the specific changes necessary to achieve consistency with the Highlands Regional Master Plan and thereby, to incorporate the specific changes in State policies, goals, and objectives as set forth by the Highlands Act. It is the intent of this Report to identify the specific revisions needed to bring the Township Master Plan and development regulations into conformance with the Highlands Regional Master Plan.

1. Major Land Development Problems & Objectives

The major problems and objectives relating to land development in the Township at the time of the adoption of the last reexamination report which have changed, specifically as a result of the passage of the Highlands Act, the adoption of the Regional Master Plan, and/or the decision of the Governing Body to conform its planning documents to the Regional Master Plan, include the following:

- a. Preservation of the environment.
 - i. The 2001 and 2007 Reexamination Reports both noted that preservation of wetland areas, stream and wetland corridors, steep slopes and forested areas as an issue.
- b. Promote historic conservation, preservation and adaptive reuse where appropriate.
 - i. A Historic Preservation Plan Element was adopted between the 2001 and 2007 Reexamination reports. The 2007 document recommended updating the list of historical sites and their preservation status.
- c. Encourage and support agricultural preservation.
 - i. Preserving the remaining agricultural lands was an important issue listed in the 2001 Reexamination Report. The 2007 document states that the Township made efforts to acquire development rights of two farms on Ramapo Valley Road and one on Campgaw Road.
- d. Provide public water and sewer facilities in all growth areas of Mahwah, but not for any non-growth area.
- e. Promote upgrading of surface water quality.

2. Extent of Reduction/Increase in Problems & Objectives

The extent to which each of the problems and objectives listed in item 1 above, have been reduced or have increased subsequent to the date of the last reexamination report, specifically as a result of passage of the Highlands Act, the adoption of the Regional Master Plan, and/or the decision of the Governing Body to conform its planning documents to the Regional Master Plan (RMP), is indicated below, in the same order provided at 1, above:

- a. Preservation of the environment.
 - i. The Highlands Council has provided the Township with a grant to prepare an Environmental Resources Inventory, which will map all of the municipality's natural resources. This document will serve as the basis for new or enhanced environmentally-based land use ordinances. These new or enhanced ordinances will supplement the Township's ordinances and work to protect waterways, steep slopes and other environmentally-sensitive features within the Township.
- b. Promote historic conservation, preservation and adaptive reuse where appropriate.
 - i. Historic, cultural, archaeological and scenic resources have been inventoried and mapped by the Highlands Council. The RMP goals support the protection and preservation of these resources. Moreover, the Highlands Council also advocates adaptive reuse of historic buildings where appropriate and sensitive to the structure's unique characteristics.
- c. Encourage and support agricultural preservation.
 - i. Agriculture is an important component of the Highlands Region's culture and landscape. The Highlands Council has a number of goals and objectives that support the retention of agriculture as a land use and as an economic generator. The Highlands Council will support any Township efforts to preserve agricultural land.
- d. Provide public water and sewer facilities in all growth areas of Mahwah, but not for any non-growth area.
 - i. Approximately 57% of the Township is located within the Highlands Council Preservation Area. Conformance in the Preservation Area is mandatory. Those areas within the Preservation Area will have extremely limited development potential and the possibility of water and sewer service line extension is unlikely. The remaining 43% of the Township, which is located within the Planning Area, is mostly built out and has been designated by the Highlands Council and past State Plans as a growth area suitable for provision of public water and sewer facilities.

- e. Promote upgrading of surface water quality.
 - i. The fundamental goal of the Highlands Council is protection of potable water quality. More than half of the residents within the State of New Jersey receive their drinking water from the Highlands Region. The Highlands Council's goals regarding water resources include protection and restoration of water resource availability, enhancement of water quality and sustainable usage. The Highlands Council has provided the Township with a \$46,600 grant to study stream corridor protection and restoration of the Ramapo River and the Ramsey Brook as well as their associated tributaries.

3. Significant Changes in Assumptions, Policies, Objectives

This section analyzes the extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population, land uses, housing conditions, circulation, conservation of natural resources, energy conservation and changes in State, county and municipal policies and objectives.

Highlands Act

In 2004 the passage of the Highlands Act occurred, in June of 2007 the Township reexamined its Master Plan and in 2008 the Highlands Council adopted the Regional Master Plan. Then in 2009, the Governing Body of Mahwah submitted their Petition for Plan Conformance to the Highlands Council, for lands in both the Preservation Area and the Planning Area, to conform the municipal planning documents to the Regional Master Plan. The Township's 2007 Reexamination report noted that after the Highlands Regional Master Plan ("RMP") was adopted, municipalities within the Preservation Area would revise their master plan and development regulations to conform to the goals, requirements and provision of the RMP. This document also indicated that the Highlands Act includes incentives for municipalities that decide to opt-in their Planning Areas.

The passage of the Highlands Act and adoption of the RMP have altered and increased the objectives that must be addressed in the Township Master Plan, including but not limited to incorporating a variety of Highlands Resource protections, providing an emphasis on infrastructure and environmental carrying capacities, and initiating a substantial modification to the methodology to be used in determining permitted

densities of development within the municipality. The Township will also be required to adopt Highlands Ordinances, revise their Zoning Map and update their Wastewater Management Plan.

Census

The Township of Mahwah has increased in population from 24,062 in 2000 to 25,890 persons in 2010, a modest increase of 7.6%. As for housing units, the Township has a total of 9,868 housing units, of which 363 or 3.7% are vacant. The average household size in Mahwah was 2.42 persons, while the average family size was 3.05 persons in 2010.¹ These changes are not considered in and of themselves to be significant enough to cause changes in the assumptions, policies and objectives forming the basis for the Master Plan.

4. Specific Recommended Changes

This section of the report outlines the specific changes that are 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.

HIGHLANDS ACT

The Planning Board recommends that specific changes to the Township of Mahwah Master Plan be adopted, including 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.

The Planning Board recommends that the specific changes, as detailed in the draft document entitled "Township of Mahwah Highlands Preservation and Planning Area Land Use Ordinance," approved by the Highlands Council as part of the Township's Petition for Plan Conformance be finalized and adopted by the Governing Body to implement the objectives, policies and standards as outlined in the Highlands Preservation and Planning Area Element of the Master Plan.

¹
http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&prodType=table

5. Changes Recommended for Incorporation of Redevelopment Plans

At this time the Planning Board makes no findings or recommendations regarding the incorporation of redevelopment plans pursuant to the Local Redevelopment and Housing Law, P.L. 11992, c.79 (C.40A:12A-1 et al.).

REEXAMINATION OF THE TOWNSHIP OF MAHWAH MASTER PLAN PURSUANT TO N.J.S.A. 40:55D-89 SPECIFICALLY WITH RESPECT TO THE PROVISIONS OF THE NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING ACT (N.J.S.A. 13:20-1 ET SEQ.) AND MUNICIPAL CONFORMANCE WITH THE HIGHLANDS REGIONAL MASTER PLAN, PREPARED AND PROVIDED FOR ADOPTION PURSUANT TO N.J.S.A. 40:55D-28, TO AMEND THE MASTER PLAN OF THE TOWNSHIP OF MAHWAH TO INCLUDE THE SUPPLEMENT TITLED, "2012 TOWNSHIP OF MAHWAH MASTER PLAN REEXAMINATION REPORT," DATED FEBRUARY 2012"

WHEREAS, the Planning Board of the Township of Mahwah, Bergen County, State of New Jersey ("Planning Board"), was established pursuant to all requirements and provisions of the New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-1 et seq.); and

WHEREAS, the Planning Board adopted the current Township of Mahwah Master Plan pursuant to Article 3 of the MLUL (N.J.S.A. 40:55D-28) on August 28, 1989; and

WHEREAS, N.J.S.A. 40:55D-89 provides that each municipality within the State of New Jersey periodically re-examine its Master Plan policies and assumptions, zoning restrictions, and site plan and subdivision regulations, and prepare and adopt by resolution a report on the findings of such reexamination; and

WHEREAS, the Planning Board has conducted such periodic reexaminations of the Master Plan since the initial date of its adoption and adopted reports setting forth its findings of each such reexamination, in accordance with the provisions of N.J.S.A. 40:55D-89; and

WHEREAS, the Highlands Water Protection and Planning Act ("Highlands Act," N.J.S.A. 13:20-1 et seq.) was enacted by the State Legislature on August 10, 2004 for the purpose of protecting, enhancing, and restoring the natural resources of the New Jersey Highlands Region, in particular the water resources, which provide drinking water to over 5 million New Jersey residents; and

WHEREAS, the Highlands Act created the Highlands Water Protection and Planning Council (the "Highlands Council") and charged it with crafting a comprehensive master plan for the New Jersey Highlands Region; and

WHEREAS, the Highlands Regional Master Plan (RMP) was adopted by the Highlands Council on July 17, 2008, and became effective on September 8, 2008 as the product of a long-term, participatory, and region-wide planning effort; and

WHEREAS, the Highlands Act creates a bifurcated system for municipal conformance with the Regional Master Plan – mandatory Plan Conformance for any portion (or if applicable, the whole) of a municipality located within the Preservation Area and voluntary Plan Conformance for any portion (or if applicable, the whole) of a municipality lying within the Planning Area; and

WHEREAS, Section 14 of the Highlands Act expressly requires that municipalities must revise and conform their local master plan and development regulations for that portion of their lands within the Preservation Area, as related to development and use of said lands, with the goals, requirements and provisions of the Regional Master Plan within 15 months of the effective date of adoption thereof, or December 8, 2009; and

WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may at any time voluntarily revise and conform its local master plan and development regulations, as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, the Township of Mahwah is located in the Highlands Region with lands lying within both the Preservation Area and Planning Area, as defined by section 7 of the Highlands Act; and

WHEREAS, on November 13, 2008 the Governing Body of the Township of Mahwah, held a noticed public meeting during which it adopted Resolution No. 137-08A, a resolution noticing of its intent to Petition the Highlands Council for Plan Conformance with respect to the whole of the municipality, which lies fully within both the Preservation and Planning Area; and

WHEREAS, the Planning Board did subsequently conduct a reexamination of the municipal master plan and land use regulations, in view of the model Highlands Master Plan Element and model Highlands Area Land Use Ordinance provided by the Highlands Council, to identify the specific changes needed to conform the municipal planning documents to the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, the Planning Board reexamination was assisted by preparation of detailed, draft versions of the Master Plan Highlands Element and Highlands Area Land Use Ordinance, each tailored by municipal staff and professionals, to the specific circumstances of the Township of Mahwah, providing for a comprehensive and explicit representation of the changes required to conform these documents to the Regional Master Plan; and

WHEREAS, this reexamination was completed over the course of a two-month period, from January 2012 through February 2012, inclusive of a collaborative process with the Highlands Council

specifically to ensure that all necessary master plan and regulatory provisions necessary for Plan Conformance were appropriately considered; and

WHEREAS, on March 26, 2012 the Planning Board did hold a noticed public meeting for the purpose of initiating a public discussion concerning conformance with the Regional Master Plan and the components of the municipality's Petition for Plan Conformance to the Highlands Council, including specifically, the report entitled, "2012 Township of Mahwah Master Plan Reexamination Report," dated February 2012; and

WHEREAS, on December 3, 2009 the Governing Body of the Township of Mahwah did hold a public meeting at which it discussed conformance with the Regional Master Plan and did adopt Resolution No. 139-09A petitioning the Highlands Council for approval of its Petition for Plan Conformance, prepared with respect to that portion of the municipality located within the Preservation Area; and

WHEREAS, on December 3, 2009 the Governing Body of the Township of Mahwah did hold a public meeting at which it discussed conformance with the Regional Master Plan and did adopt Resolution No. 140-09A petitioning the Highlands Council for approval of its Petition for Plan Conformance, prepared with respect to that portion of the municipality located within the Planning Area; and

WHEREAS, on December 8, 2009 the Township of Mahwah did submit the Petition for Plan Conformance to the Highlands Council; and

WHEREAS, on December 16, 2010, during a duly-noticed public hearing and following receipt of public comment and public deliberation, the Highlands Council did approve the Township's Petition for Plan Conformance and did formalize such approval through the adoption of Highlands Council Resolution No. 2010-14; and

WHEREAS, Highlands Council Resolution No. 2010-14 requires the Township, after public notice, holding of public hearings, and in full accordance with all provisions of the MLUL, to adopt a revised master plan and land use ordinance to bring them into conformance with the Regional Master Plan; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, and in accordance with all associated requirements of the MLUL, the Planning Board held a public hearing on the Reexamination of the Township of Mahwah Master Plan pursuant to N.J.S.A. 40:55D-10(a), on March 26, 2013; and 

WHEREAS, the Planning Board has determined after reexamination of the master plan, receipt of

public comment, and public deliberation regarding same, that the Township of Mahwah Master Plan must be amended to incorporate the goals, requirements and provisions of the Regional Master Plan;

NOW, THEREFORE BE IT RESOLVED, that the Planning Board hereby makes and adopts the findings of fact and all recommendations as set forth in the "2012 Township of Mahwah Master Plan Reexamination Report," dated February 2012, prepared by David G. Roberts, AICP, PP, LLA, LEED AP ND a reexamination of the Township of Mahwah Master Plan and development regulations conducted specifically to address the task of achieving conformance with the provisions of the New Jersey Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et seq.) and the Highlands Regional Master Plan.

A motion to adopt the above Resolution was made on March 26, 2012 by the following vote:

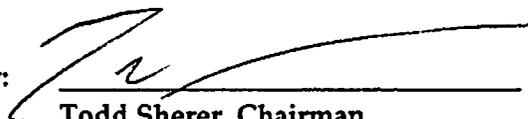
Name	Motion	Second	Yes	No	Abstain	Absent
Mr. Crean		X	X			
Mr. Donigian			X			
Mr. Ervin			X			
Councilman Jandris			X			
Mayor Laforet	X		X			
Mr. Rudolph			X			
Mr. Sherer, Chairman			X			
Mr. Van Duren			X			
Mr. Weixeldorfer			X			
Ms. Stein, Alternate I						
Mr. Mordaga, Alternate II						
Total			9	0		

The Board memorialized its findings on April 9, 2012 by the following vote:

Name	Motion	Second	Yes	No	Abstain	Absent
Mr. Crean			X			
Mr. Donigian			X			
Mr. Ervin			X			
Councilman Jandris	X		X			
Mayor Laforet			X			
Mr. Rudolph		X	X			
Mr. Sherer, Chairman			X			
Mr. Van Duren						X
Mr. Weixeldorfer			X			
Ms. Stein, Alternate I						
Mr. Mordaga, Alternate II						
Total			8			1

MAHWAH PLANNING BOARD

Dated: 4/14/12

By: 
 Todd Sherer, Chairman