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**BOROUGH OF MOUNTAIN LAKES**  
**INTEROFFICE MEMORANDUM**

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**TO:** HONORABLE MAYOR AND COUNCIL  
**FROM:** ROBERT S. HOFFMANN, INTERIM MANAGER  
**SUBJECT:** HISTORY AND POTENTIAL USES FOR KING OF KINGS BACKLANDS  
LOT – DESIGNATED AS BLOCK 116 LOT 3.01  
**DATE:** APRIL 27, 2015  
**CC:** MICHELE REILLY, BOROUGH CLERK  
ROBERT OOSTDYK, BOROUGH ATTORNEY  
PAUL A PHILLIPS, AICP, PP, BOROUGH PLANNER  
RICHARD SHEOLA, INCOMING BOROUGH MANAGER  
PLANNING BOARD MEMBERS  
ZONING BOARD MEMBERS

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**Summary**

This memo is intended to provide the Governing Body and all interested parties with a history of the Borough's Master Plans from 1963 to present as well as an overview of the potential uses for the King of King Backlands Lot also known as Block 116, Lot 3.01. There have been nineteen (19) updates to the Master Plan since the adoption of the first Master Plan in 1963. The Borough's current Master Plan was adopted on October 24, 2013.

The Borough is at the start of the evaluation process for the potential rezoning of the King of Kings Backlands Lot in a manner that would allow responsible and economically feasible development consistent with the Borough's Goals and Objectives. The planning for this eventuality began back in 1915 and was formalized with the adoption of the Borough's first Master Plan in 1963.

The history of the Borough's Master Plan process shows that the development of Mountain Lakes including this parcel has not occurred in a vacuum. A thorough and methodical evaluation process has been and should continue to be used to evaluate the development of all parcels of land.

Previous governing bodies had tasked current and former Borough representatives with bringing forth opportunities to increase the ratable base. The Master Plans have recommended that the Route 46 corridor be considered a priority. Any development on this parcel would increase the Borough's ratable base.

The Borough has recognized that the King of Kings Backlands lot is one of the few remaining vacant tracks within its borders. It is a potential site which can be utilized to meet the Borough's future unfulfilled affordable housing obligations. The updated obligation listed by the Fair Share Housing Alliance is 264 units. It should be noted that this proposed number has not been sanctioned by the Courts. The previous second round approved obligation was 88 units.

The Governing Body has a responsibility to review Ordinances, policies and procedures. They are not required to take action. The Governing Body is required to examine, evaluate and ultimately conduct a due diligence of the issues that affect the Borough.

### **Overview**

The King of Kings Backlands lot is a 7.7 acre parcel that currently has a farmland assessment. It is private property. The current owner has the right to use the land as they deem in their best interest as long as the use conforms to the Zoning Code of the Borough. The owner has the right to: use the property, apply for a change and/or variance, develop it for other uses, or, sell the property to another who will have the same rights for land use. These are the same rights that all other property or homeowners in the Borough have. Any homeowner can petition for a variance to build a deck, add addition or subdivide their property if it is large enough. The parcel is zoned RC-1. This stands for Single Family Residential – Cluster. The lot size in this designation is approximately 22,500 square feet or a half acre.

### **History**

On December 3, 1963, the Borough's Planning Board adopted its first Master Plan. The preparation of the Master Plan had been authorized in June of 1962. Public Hearings were held on November 8<sup>th</sup> and December 3<sup>rd</sup> 1963. The area south of Boulevard between Route 46 and Pocono Road was proposed as a site for garden apartments (rental). It was projected that apartment development in this area would attract development in the Route 46 Business Zone (pages 61 through 66).

Page 8 of the 1979 Master Plan references "The Intervale District". It states "the vacant land of this ED (Economic District) consists of about 45 acres of land, presently divided among three land owners, plus about 10 acres of the tract owned by the Lutheran Church." One of the recommendations on page 9 for the Intervale District is for residential land use. The fifth (5<sup>th</sup>) recommendation states "It gives the opportunity to construct homes of smaller size to meet local demand for such units to serve elderly residents and younger families."

Both the 1996 Master Plan and the 2002 Reexamination Report state that "Housing options, senior housing" indicate that the intent to create a variety of housing through zoning for townhouses and cluster development did not result in the construction of smaller and lower priced housing units. There are few opportunities remaining. The need for senior housing has not been met by a specific development in the Borough. "Mountain Lakes had zoned for age-restricted housing at the 'Fusee' property, but the restriction was lifted when the market no longer supported construction of such units."

Chapter III, Page 6 of the 1996 Master Plan references this parcel (King of Kings Backlands – Block 116 Lot 3.01) and states "In order to address the housing needs of older Borough residents, attached housing suitable for senior citizens is recommended with an overall density of 3-6 units per acre."

Chapter XIII, Page 3 of the 1996 Master Plan states "In view of the Borough's aging population, the Land Use Plan element recommends rezoning this site for housing for senior citizens."

**Note:** On May 26, 2006 an amendment to the Land Use Element of the Master Plan was adopted. This amendment prepared by the Master Plan Subcommittee removed the requirement for senior citizen housing on the King of Kings Backlands lot. It was anticipated that the need for senior citizen housing would occur on the Fusee property. This did not occur.

The 2002 Reexamination Report states that "The property is a constrained lot both in access and environmental encumbrances. The cluster option would permit a protection of some open space and retention of the buffer to the highway and railroad."

Since 2004, there have been two (2) attempts to purchase this property and preserve it as open space. The Mountain Lakes Conservancy made the first attempt. They were able to obtain a \$1,000,000 grant from the Morris County Planning and Preservation Office. The owner decided not to sell the property. The Borough then made an attempt in both 2010 and 2012 to purchase this parcel. Again the intention was to add the parcel to the Borough's open space inventory and create a passive park. Morris County provided a total of \$1,610,000 of grant funding through two separate grant applications for this acquisition. The appraised value of the property was lower than the seller believed it was worth. It is my understanding that three (3) appraisals were obtained. All three valued the property below the expectations of the seller. The owner declined to sell the property to the Borough for an amount supported by the appraisal. The Borough was not able to reach an agreement with the property owner on the purchase price. The grant funding was returned to Morris County so that they could reallocate the grant funds for use by another municipality.

### **Conclusion**

1. The process to obtain grant funding to purchase this property would take a significant period of time to achieve. Based on the history dating back to 2004 of the unsuccessful attempts to acquire the property it would be exceedingly difficult. It is unlikely that the property would still be available for purchase by the Borough even if funding could be obtained.
2. The Borough must be cognizant of the potential for a Mount Laurel action similar to that currently being threatened by the Waterview developer in Parsippany for approximately 660 units. The Borough Planner has advised us that a potential developer bringing a "Builders Remedy" action against the Borough could be expected to propose a project with as many as 200 apartment style units. This could provide the Borough with up to forty (40) affordable housing units.
3. A well thought out, intelligent, lower density development on that site is preferable to a Court ordered higher density development which would in all likelihood have a more severe impact on the Borough's environment, educational system, infrastructure and cost of services for decades to come.
4. Any development at site would require the developer to obtain a source of water from outside the Borough and deliver it to the units that will be built there.
5. The Governing Body and the citizen volunteers who have served the Borough of Mountain Lakes since the 1960's are to be commended for their efforts to follow in the footsteps of the founders of this planned community. Your combined efforts to be good stewards of the environment has resulted in the development of one of the most desirable and prestigious communities in the State of New Jersey. Sandy Batty, Ellen Emr, Jim Moody, Brian Marshall and Khizar Sheik have all been gracious with their sharing of knowledge. Sandy, Ellen and Jim met with me on Wednesday afternoon, February 25<sup>th</sup> to provide information from a historical perspective that has been corroborated by a review of past Master Plans.

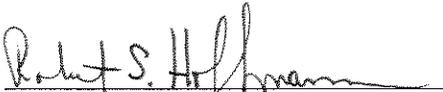
### **Recommendations**

1. Authorize the Borough Planner to draft an ordinance which proposes a change to the zoning of the property in a manner that will encourage reasonable and economically feasible residential development. The draft ordinance should also provide an incentive for a developer to look to a conforming development rather than consider a "Builder's

- Remedy” alternative for the development of the property. The Governing Body should have a draft for introduction at the May 11<sup>th</sup> Council meeting.
2. Direct that the ordinance be reviewed by the Planning Board at its May 28<sup>th</sup> meeting.
  3. Review the Planning Board’s comments at the Public Hearing for the ordinance at the June 8<sup>th</sup> Council meeting.
  4. Authorize the Council liaisons to meet with the Board of Education, Environmental Commission and any other interested parties to obtain information and report back to the full Council with the understanding that this information will be used to assist with the development of the parcel, not to attempt to stop the development.
  5. Direct the Borough Manager to provide the Governing Body with monthly updates on any activity related to the purchase of the parcel, zoning, and development of plans or construction.
  6. Authorize the Borough Attorney to monitor the project and make any recommendations necessary to avoid a Builders Remedy Lawsuit.
  7. Direct the Manager to apply for open space grant funding for any property within the Borough that would meet the open space criteria.

Following the Borough’s well thought out process to review proposed development plans as described in the Municipal Land Use Law (MLUL) will ensure that the rights of all parties are evaluated and protected from the planning stage through development and occupancy. The combined efforts of the Governing Body, Borough professionals and concerned citizens working within the framework of the MLUL will ensure that the parcel is developed in a manner that is consistent with the character of Mountain Lakes.

Please do not hesitate to contact me with any questions that you may have.

  
Robert S. Hoffmann