

21-01036

ORDINANCE

IMPOSING A TEMPORARY MORATORIUM FOR NEW LAND DEVELOPMENT APPROVALS FOR SPECIFIED PROJECTS WITHIN THE DEFINED SPECIAL FLOOD HAZARD AREAS, AND PROVIDING FOR ENHANCED DRAINAGE DESIGN REQUIREMENTS WITHIN THE SPECIAL FLOOD HAZARD AREAS, FOR A PERIOD OF TWELVE (12) MONTHS BEGINNING ON SEPTEMBER 1, 2021, IN ORDER TO ESTABLISH REVISED DEVELOPMENT STANDARDS IN CONJUNCTION WITH THE DELIVERY OF THE PARISHWIDE STORMWATER MASTER PLAN.

WHEREAS, the Specified Projects are hereby defined as developments requiring approval/issuance of any of the following: a Preliminary Major Subdivision Plat; Rezoning for PUD, SPUD, and TND planned districts; Final Development Plans for PUD and TND planned districts; and all other new multi-family and non-residential site plans that require "Planning Commission" approval as defined in UDC Section 4.2.2; and

WHEREAS, Specified Projects within any portion of the Developed Site Area in the Special Flood Hazard Area shall be required to incorporate and design for Enhanced Drainage Design Requirements; and

WHEREAS, the Enhanced Drainage Design Requirements shall require new developments to design stormwater detention systems, including on-site and off-site infrastructure, to provide adequate storage capacity to detain the 100-yr (one percent) storm, AND design on-site drainage improvements such that the peak flow rates at the exit points for the post-development condition is no more than 90% of the peak flow rates at the exit points for the pre-development condition for the 10-year (ten percent), 25-year (four percent), and 100-year (one percent) storm events. This shall result in a 10% (minimum) reduction in the post-construction peak stormwater discharge flow rates for each of these events; and

WHEREAS, a new "Stormwater Master Plan" means a new and updated East Baton Rouge Parish stormwater master plan to be adopted by the Metropolitan Council utilizing the HNTB Drainage Study, taking into consideration the recent extreme flooding events, to study local hydrology with the intention of creating a master plan to alleviate flooding conditions within the Parish; and

WHEREAS, the Parish experienced widespread historical flooding events in August of 2016, June of 2019, and May of 2021. These events continue to bring to light the current challenges regarding existing stormwater conveyance systems, Stormwater Requirements and their impact on overall stormwater management in the Parish; and

WHEREAS, the City-Parish has been actively and diligently engaged in its assessment of the drainage and regulatory program, including evaluating its Stormwater Requirements and has taken a proactive approach, working to improve and strengthen storm water regulations in new Development Projects resulting from these storm events; and

WHEREAS, the Metropolitan Council requested the Planning Commission and the Department of Development propose potential amendments to Chapter 15 (Floodways, Floodplains, Drainage and Water Quality) to revise the standards for stormwater facilities and protection from flooding with Resolution 53127. As a response, the Planning Office, Department of Development, Department of Transportation and Drainage, Department of Maintenance, the Growth Coalition, Federation of Civic Associations, and local design professionals met as a working group to review Chapter 15 and Chapter 20 (Definitions); and

WHEREAS, since 2016, the following changes have been implemented by the Metropolitan Council:

2017 Modifications:

(1) Reduced development density in the Rural zoning district.

2018 Modifications:

(1) Require developments to design for a 25-year storm event (an increase from 10-year event);

(2) Revision reduces the amount of fill that can be placed in special hazard areas;

(3) Establishing tighter regulations for use of off-site fill mitigation credits;

(4) Revision prohibited new point and non-point source discharges onto adjacent properties without drainage servitudes;

(5) Revision requires maintenance and regular inspection of drainage facilities on private property;

(6) Requires regular inspection of drainage facilities on private property by a licensed professional engineer to ensure that they are continuing to function as designed; and,

(7) Requires that drainage facilities on the perimeter of a site be constructed and functional before other facilities or improvements are made.

2019 Modifications:

(1) Established requirements for the preservation of open space in residential developments;

(2) Created an incentive for providing storm water controls providing more detention than required and reducing peak runoff rates; and,

(3) Amending the requirement that the elevation of streets and parking lots be based on the record inundation will create additional storage capacity and reduce potential impoundments and will better protect structures in the Parish.

2021 Modifications:

(1) In addition to the mandated Drainage Impact Studies, added the requirement of Storm Water Conveyance Checks to better verify up/downstream capacity and help protect the natural and existing drainage patterns; and,

(2) Added a series of new street cross-sections to the Unified Development Code that incorporates green infrastructure for additional stormwater management;

WHEREAS, notwithstanding the implementation of significant improvements and requirements related to drainage concerns in the Parish, the City-Parish's current Stormwater Requirements are under review and modifications may be necessary; and

WHEREAS, the Metropolitan Council finds that certain essential public and private infrastructure, being drainage and stormwater improvements, within the Special Flood Hazard Areas are inadequate and insufficient to prevent, mitigate or minimize flooding events; and

WHEREAS, there is a crucial and critical need to identify and potentially establish additional improved Stormwater Requirements that protect the health, safety and welfare of the residents of the Parish; and

WHEREAS, the preparation of the new Stormwater Master Plan is intended to address these and other issues. The purpose of the new Stormwater Master Plan is to:

(1) Understand how the Parish's natural and man-made stormwater systems perform;

(2) Develop a plan that addresses the risks and impacts of local and regional flooding;

(3) Help guide the City-Parish into the future with improved data, stormwater system planning and flood risk reduction;

(4) Develop and adopt new Stormwater Requirements, and

(5) Communicate the plan and engage the public;

WHEREAS, the City-Parish is working to complete the new Stormwater Master Plan and drainage projects and maintenance improvements, which is expected to be completed within twelve (12) months of the Effective Date; and

WHEREAS, the implementation of the new Stormwater Master Plan will also require the study and updating of the Stormwater Requirements to clarify and improve its planning policies, regulations and the UDC to protect the health, safety, environment, quality of life and general welfare of residents; and

WHEREAS, pending the completion of the new Stormwater Master Plan, the interest of the public is of grave concern to the Metropolitan Council, and the Metropolitan Council wishes to take temporary actions to address drainage design requirements and infrastructure within Special Flood Hazard Areas; and

WHEREAS, in order for the City-Parish to have adequate and reasonable time to receive the new Stormwater Master Plan and to provide the City-Parish with adequate and reasonable time to review, evaluate and revise Stormwater Requirements and to consider the impact of new Stormwater Requirements upon future growth, future health and safety, development, the natural environment within the Special Flood Hazard Areas, the

Metropolitan Council wishes to impose and implement the Temporary Development Moratorium for the Specified Projects within the Special Flood Hazard Areas during the Moratorium Term; and

WHEREAS, the purpose of prohibiting certain New Land Development Approvals during this study period includes, within limitation, preserving the status quo during the planning process, facilitating thoughtful and consistent planning, avoiding exploitation of the delays inherent in the City-Parish's legislative process in the enactment of new Stormwater Regulations, and preventing applications from undermining the effectiveness of the new Stormwater Regulations by applying for permits and/ or approvals in order to avoid the application of new, possibly more restrictive, Stormwater Regulations; and

WHEREAS, the Metropolitan Council wishes to establish this Temporary Development Moratorium commencing on September 1, 2021 for the purpose of preserving the status quo in order to allow the Metropolitan Council reasonable time to review, conduct research, receive public input, evaluate and establish reasonable policies, and prepare and adopt the new Stormwater Master Plan;

NOW, THEREFORE, BE IT ORDAINED by the Metropolitan Council of the Parish of East Baton Rouge and the City of Baton Rouge that:

Section 1. ESTABLISHMENT OF TEMPORARY DEVELOPMENT MORATORIUM.

For the reasons and purposes set forth in this Ordinance, this Temporary Development Moratorium is established and enacted.

(a) **The Specified Projects** are hereby defined as **developments requiring approval/issuance of any of the following: a Preliminary Major Subdivision Plat; Rezoning for PUD, SPUD, and TND planned districts; Final Development Plans for PUD and TND**

planned districts; and all other new multi-family and non-residential site plans that require "Planning Commission" approval as defined in UDC Section 4.2.2.

(b) Specified Projects with any portion of the Developed Site Area within the Special Flood Hazard Area shall be required to incorporate and design for Enhanced Drainage Design Requirements.

(c) The Enhanced Drainage Design Requirements shall require new developments to design stormwater detention systems, including on-site and off-site infrastructure, to provide adequate storage capacity to detain the 100-yr (one percent) storm, AND design on-site drainage improvements such that the peak flow rates at the exit points for the post-development condition is no more than 90% of the peak flow rates at the exit points for the pre-development condition for the 10-year (ten percent), 25-year (four percent), and 100-year (one percent) storm events. This shall result in a 10% (minimum) reduction in the post-construction peak stormwater discharge flow rates for each of these events;

Section 2. TERM AND DURATION.

This Ordinance shall be effective on SEPTEMBER 1, 2021, in order to protect the health, safety and welfare of the citizens of East Baton Rouge Parish and it expires from the earlier of:

- (a) Twelve (12) months from the Effective Date;
- (b) The adoption of new Stormwater Master Plan Ordinance; or
- (c) Termination by the Metropolitan Council.

Section 3. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the

validity or constitutionality of the remaining portions of this ordinance.