

ST. TAMMANY PARISH COUNCIL

RESOLUTION

RESOLUTION COUNCIL SERIES NO. C-1172

COUNCIL SPONSOR MR. GOULD

PROVIDED BY COUNCIL OFFICE

RESOLUTION TO VACATE, IN PART, THE MORATORIUM ESTABLISHED BY ORDINANCE C.S. NO. 04-0839 ON ISSUANCE OF BUILDING PERMITS FOR CONSTRUCTION OR PLACEMENT OF BUILDING STRUCTURES ON PROPERTY WITHIN A PORTION OF THE BIRG BOULEVARD SUBDIVISION. (WARD 3, DISTRICT 5)

WHEREAS, pending review of existing land use and to formulate measures to protect residents in and near the area more fully described within the ordinance, and for such other reasons stated therein, the Parish Council adopted Ordinance C.S. No. 04-0839, establishing a six-month moratorium on the issuance of building permits for construction or placement of any building structures on the specified property within a portion of The Birg Boulevard Subdivision, Ward 3, District 5; and

WHEREAS, the owner and/or developer of LOTS 31 through and including LOT 35, being a portion of Covington Meadows Subdivision, Phase 2, and LOTS 53 through and including LOT 62, Covington Meadows Subdivision, Phase 3, situated in Section 14 and 5, Township 7 South, Range 11 East, St. Tammany Parish, Louisiana, also located in a portion of former Helenbirg Estates Subdivision, have voluntarily entered into an "In-kind Services and Development Agreement," in order to address, remedy, lessen and/or alleviate the adverse impacts that the development of said property will have on the potential hazards of a proliferation of driveways and increased traffic on a substandard roadway, and the adverse effects of flooding by continued development along Helenbirg Road, within the area of the moratorium, and an initial evaluation and determination having been made that the agreed upon improvements will adequately address the current impacts resulting from the particular development of said lots, which will also assist in addressing the overall impacts in the area, the aforesaid lots should, therefore, be removed from the provisions and restrictions of the moratorium.

THE PARISH OF ST. TAMMANY HEREBY RESOLVES that the Parish Council vacates, in part, the moratorium established by Ordinance C.S. No. 04-0839 on the issuance of building permits for construction or placement of building structures within a portion of The Birg Boulevard Subdivision, to remove LOTS 31 through and including LOT 35, being a portion of Covington Meadows Subdivision, Phase 2, and LOTS 53 through and including LOT 62, Covington Meadows Subdivision, Phase 3, situated in Section 14 and 5, Township 7 South, Range 11 East, St. Tammany Parish, Louisiana, also located in a portion of former Helenbirg Estates Subdivision.

BE IT FURTHER RESOLVED that the moratorium shall continue to be in full force and effect for the remainder of the subdivision as established by Ordinance C.S. No. 04-0839.

THIS RESOLUTION HAVING BEEN SUBMITTED TO A VOTE, THE VOTE THEREON WAS AS FOLLOWS:

MOVED FOR ADOPTION BY: _____, SECONDED BY: _____

YEAS:

NAYS:

ABSTAIN:

ABSENT:

Rec'd C-1112

IN-KIND SERVICES and DEVELOPMENT AGREEMENT

This Agreement is made and entered into, effective this 9 day of July 2004, pursuant to the authority set forth in Subpart A, Part 1, Chapter 14, Title 33, of the Louisiana Revised Statutes of 1950, St. Tammany Parish Police Jury Ordinance 92-1655, and any other constitutional and statutory authority, by and among the following:

The Parish of St. Tammany, a political subdivision created and organized under the constitution and laws of the State of Louisiana, and the duly adopted Home Rule Charter, approved by the voters of St. Tammany Parish on October 3, 1998, appearing herein by and through Kevin Davis, Parish President,

and

Rockhurst Interests, LLC., 610 Yupon Place, Mandeville, LA 70441, owner of the property described below, sometimes referred to as "appearer", herein represented by Dale A. Stram, Managing Member.

WITNESSETH

WHEREAS, in order to protect and preserve the health, safety and property interests of residents from the potential hazards of a proliferation of driveways and increased traffic on a substandard roadway and adverse effects of flooding by continued development within a portion of The Birg Boulevard Subdivision, Ward 3 District 5 of St. Tammany Parish, the Parish of St. Tammany adopted Ordinance Council Series No. 04-0839, on March 4, 2004, imposing a six (6) month moratorium on the issuance of permits for the construction or placement of any building structures on property within a portion of the Birg Boulevard Subdivision, Ward 3, District 5, as more fully described in the aforesaid Ordinance, map attached thereto, and as herein below, to-wit:

A portion of The Birg Boulevard Subdivision consisting of an area extending approximately 300' north from Helenbirg Road to the North Street right-of-way and extending approximately 300' south from Helenbirg Road to the South Street right-of-way, beginning at the intersection of Helenbirg Road and 5th Avenue and proceeding southwest and east on Helenbirg Road to its intersection with the U.S. 190 Service Road; all as further shown on the vicinity map attached hereto.

WHEREAS, the parties hereto recognize and acknowledge the existence of the potential threat to the health, safety and property interests of the residents as a result of a proliferation of driveways and increased traffic on Helenbirg Road, a substandard road, and the adverse effects of flooding by continued development within a portion of The Birg Subdivision;

WHEREAS, the "appearer" is the owner and/or developer of LOTS 31 through and including LOT 35, being a portion of Covington Meadows Subdivision, Phase 2, and LOTS 53 through and including LOT 62, Covington Meadows Subdivision, Phase 3, situated in Section 14 and 5, Township 7 South, Range 11 East, St. Tammany Parish, Louisiana, also located in a portion of former Helenbirg Estates Subdivision;

WHEREAS, LOTS 31 through and including LOT 35, and LOTS 53 through and including LOT 62, are situated within the area covered by the aforesaid moratorium, and are subject to all of the provisions and restrictions thereof, and in order to address, remedy, lessen and/or alleviate the adverse impacts that the development of appearer's property will have on the potential hazards of a proliferation of driveways and increased traffic on a substandard roadway, and the adverse effects of flooding by continued development along Helenbirg Road, appearer does hereby voluntarily enter into this agreement and does hereby agree and commit to pay the following impact fees, to be used towards providing the needed improvements, and/or to provide the improvements set forth hereinafter, in connection with the development of the aforesaid lots; and

WHEREAS, the Parish of St. Tammany recognizes and agrees that by providing and/or contributing to the needed improvements in connection with the appearer's development of the aforesaid lots, the appearer is adequately addressing the current impacts that are anticipated to result

from particular development of appearer's lots, which will also assist in addressing the overall impacts in the area, and appearer's development should, therefore, be removed from the provisions and restrictions of the moratorium.

AGREEMENT

APPEARER does hereby agree and commit to the following: (1) the common area has been dedicated to the parish as agreed; (2) the drainage improvements toward the south, as per the Corp of Engineers Permit has been completed and accepted as agreed; (3) the natural slough, located towards the center of the subdivision property, has been dedicated to the parish as agreed; (4) at the time this agreement is signed, appearer shall pay a one-time, lump sum impact fee, in the amount of five hundred (\$500.00) dollar per lot, for a total of \$7,500.00, which shall be used for drainage and/or road related improvements within the Helenbirg corridor.

ST. TAMMANY PARISH hereby agrees to adopt a resolution, vacating the moratorium, in part, in order that the development of the herein above described lots may proceed. Upon the execution of this agreement, building permit applications may be filed and processed for the aforesaid lots.

ENFORCEMENT

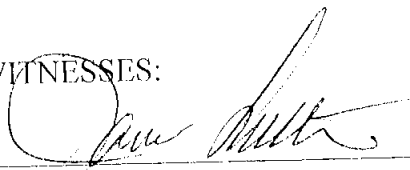
The parties hereto pledge their mutual cooperation in complying with the terms and conditions of this agreement, all to the end that the welfare of the residents may be satisfactorily met.

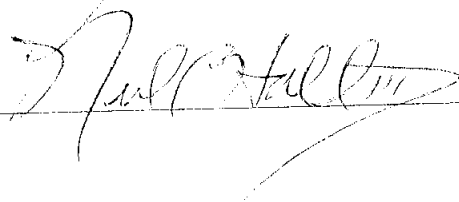
CONTRACTUAL VALIDITY

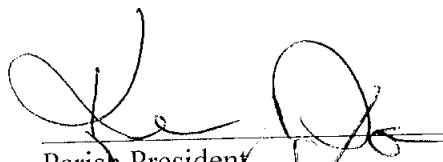
In the event that any one or more provisions of this Agreement is for any reason held to be illegal or invalid, the parties shall attempt, in good faith, to amend the defective provision in order to carry out the goals and intents of this Agreement. Furthermore, all parties agree to negotiate in good faith, refrain from challenging the validity or legality of this agreement and join in the defense of any legal challenge to this Contract. Any legal expenses incurred as a result of any challenge to the legality of this agreement by a third party shall be equally shared by the Parties.

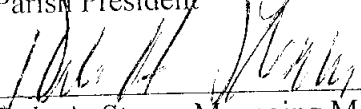
IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed in multiple originals by the hereunder signed officers, each in the presence of the undersigned two (2) competent witnesses in St. Tammany Parish, State of Louisiana, as of the date first herein above set forth, after diligent reading of the whole, in various counterparts.

WITNESSES:







Parish President


Dale A. Stram, Managing Member
On Behalf of Rockhurst Interests, LLC