



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 11, 2007

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department
Community Development Department

SUBJECT: Elings Park Pre-Annexation Memorandum Of Understanding

RECOMMENDATION:

That Council authorize the City Administrator to execute a pre-annexation Memorandum of Understanding between the City and the Elings Park Foundation, in a form approved by the City Attorney, providing for said Foundation's consent to annex Assessor's Parcel Number 047-010-049, commonly referred to as Elings Park South.

DISCUSSION:

Background:

The Elings Park Foundation (Foundation) operates Elings Park on two large parcels of land in the Las Positas Valley. Elings North is on City-owned property and has been leased to the Foundation which has improved it with many valuable public recreation amenities over the years. The final phases of park development on the north portion will be going through the City review process in the coming year. The Elings South property, formally owned by the Jesuits, is now owned by the Foundation. It is located outside the City limits, at the northeast corner of Cliff Drive and Las Positas Road.

For many years, the City and the Foundation have considered the ultimate annexation of Elings South and, for some time, the City has proceeded with the annexation of this property as part of a larger annexation associated with the relinquishment of State Highway 225 by the State to the City. Including Elings South in that annexation process has had the benefit of reducing costs to the Park and simplifying their development review process. The City has submitted the annexation application to the Local Agency Formation Commission (LAFCO), and a hearing on the matter is expected early next year. However, prior to the hearing, the City and the Foundation want to reach a consensus on a few key land use and water use issues, which would be addressed in the proposed Memorandum of Understanding (MOU).

REVIEWED BY: _____ Finance _____ Attorney

Agenda Item No. _____

Land Uses:

The annexation process typically includes a recommendation from the Planning Commission as to the zoning and General Plan land use designation for the land to be annexed. The Council established the zoning and land use designation for the Park in the ordinance and resolutions related to the State Highway 225 annexation. For the Elings South property, the Planning Commission and Council actions identified the zoning as P-R Park and Recreation Zone with a partial inclusion in the SD-3 Special District Overlay of the Coastal Zone. The General Plan designation is Recreation and Open Space/Community Park.

The proposed MOU between the City and the Foundation would acknowledge that the specified existing uses on Elings South within the proposed P-R designation of "Undeveloped Parkland" will be allowed to continue pending a possible future PR Zone re-designation of Elings Park by the City as a "Regional Park." Such existing uses on Elings South include weddings, wedding receptions, hang gliding, mountain biking, remote control model planes, hiking, horseback riding, off-leash dogs, light agriculture, cellular telephone facilities, picnic tables, and parking for activities on Elings North and Elings South.

A development plan for the final phases of Elings North and some improvements at Elings South has recently been submitted to the City by the Foundation and will involve a re-designation of the properties under the PR Zone. Elings North is currently zoned "Residential" and operates under a Conditional Use Permit. For some time now, it has been anticipated that an overall designation of the properties as "Regional Park" under the City's P-R zoning would be appropriate. The question has been when to consider this change, and it was agreed by City Staff and the Foundation that it makes sense to include it as a part of the current development proposal. The City Council will make the final determination when the application has completed the public review process later this year.

Street Improvements:

Staff had proposed a requirement to construct approximately 300 feet of sidewalk along the Cliff Drive frontage of Elings South as a condition of the Foundation's application for Phase III improvements at Elings North. This would have provided a portion of the sidewalk connection between existing sidewalks to the east of the park and Jeff Elings Drive, which is used by hang gliders and others to gain access to Elings South. The Foundation requested that this requirement not be imposed on the Foundation as a part of its current application. Through the MOU, Staff has agreed with removal of the condition at this time, with the understanding that any future application for development at the Park could be conditioned to include sidewalks and other public improvements as deemed appropriate by the City. Consequently, the proposed MOU would state that the City will not require street frontage improvements along Cliff Drive or Las Positas Road as a part of the current application only.

Water Issues:

Elings North is currently served with potable and recycled water from the City's water system. Most existing landscaping is irrigated with recycled water. At Elings South, there are two private wells near the northeast corner that provide up to approximately 30 gallons per minute (gpm) and which serve the limited irrigation needs on Elings South. As a part of discussions regarding the draft MOU, the Foundation requested the right to continue to use these groundwater wells, discretion as to where and when to utilize recycled water at the park, and special pricing for water provided to the park. Staff was not able to support all of these requests; however we have been able to reach a compromise which is incorporated into the MOU. The Foundation would be allowed to pump groundwater at a rate not to exceed 100 gpm for use in irrigating the Park, except that all existing uses of recycled water will continue unless deemed infeasible by the Public Works Director. Any future water needs in excess of the 100 gpm of groundwater would be provided by the City at standard water rates and would be met with recycled water wherever determined feasible by the City.

BUDGET/FINANCIAL INFORMATION:

The MOU would have a potential minor impact on future Water Fund revenues resulting from displaced water sales in the amount of approximately \$25,000 per year due to the use of groundwater in place of City water. No other financial impacts have been identified.

SUSTAINABILITY IMPACT:

The proposed MOU facilitates the ongoing effort to provide open space, park land, and recreational opportunities for the community, consistent with the principles of sustainable development.

ATTACHMENT: Draft MOU Between City and Elings Park Foundation

PREPARED BY: Bill Ferguson, Water Resources Supervisor/mh

SUBMITTED BY: Paul Casey, Acting Public Works Director
Dave Gustafson, Acting Community Development Director

APPROVED BY: City Administrator's Office

**PRE-ANNEXATION MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
ELINGS PARK FOUNDATION
AND
CITY OF SANTA BARBARA**

Recitals

A. The Elings Park Foundation (“Foundation”) owns approximately 130 acres of real property located in the County of Santa Barbara, State of California, as shown on a Map of Survey recorded in Book 112, Page 43 of Record of Surveys in the office of the County Assessor of said County, also known as APN 047-010-49 and more particularly described in the legal description attached hereto as **Exhibit 1** (“Elings Park South”).

B. The Foundation also leases and occupies approximately 97 acres of real property located in the City of Santa Barbara, State of California, immediately adjacent to and northerly of Elings Park South, more particularly described in the legal description attached hereto as **Exhibit 2** (“Elings Park North”). Elings Park North is owned by the City of Santa Barbara (“City”).

C. Elings Park South is subject to a Covenant Restricting Use recorded on January 19, 2006 as Document No. 2006-0004777 in the Official Records of the County of Santa Barbara (“County Covenant”).

D. Elings Park South is located in the unincorporated area of Santa Barbara County, immediately adjacent to the City’s corporate boundaries and within the City’s sphere of influence. The City’s General Plan provides for the annexation of Elings Park South to the City. On May 2, 2006, the City Council of the City of Santa Barbara adopted a resolution initiating proceedings for the annexation of Elings Park South to the City.

E. The Foundation is prepared to consent to the proposed annexation of Elings Park South to the City provided certain existing and proposed uses are allowed to continue, and provided certain other conditions relating to the property are met.

Memorandum of Understanding

1. Existing Uses. City and Foundation agree that the existing uses of Elings Park South as of the effective date of the ordinance by which this memorandum of understanding is approved by the City are considered by the City as pre-existing allowed uses on Elings Park South, pending any subsequent changes or amendments to the City's land use regulations applicable to Elings Park South which may be enacted by the City Council after its annexation to the City. It is understood and acknowledged by both the City and the Foundation that the City's recognition of these pre-existing uses as being allowed uses at the time of the annexation of Elings Park South will not, after said annexation, preclude or restrict the City Council from re-categorizing Elings Park South as a "Regional Park," as that term is used in SBMC Chapter 28.37. This acknowledgment establishes, however, that pending such a re-classification by the City under SBMC 28.37, the Foundation will otherwise be allowed to operate and maintain Elings Park South with these pre-existing uses available and allowed without further restriction by the City despite the initial pre-zoning designation of Elings Park South in the SBMC Chapter 28.37 designation of "Undeveloped Parkland." For purposes of Paragraphs 1 and 2 of this memorandum, "land use regulations" shall include, without limitation, the City's General Plan, the Local Coastal Plan, and the City's zoning ordinance. For purposes of this paragraph, "existing allowed uses" shall be the following activities: 1. weddings (including wedding receptions), 2. hang gliding and paragliding (including training/teaching thereof), 3. mountain biking (including an annual "Bike Festival"), 4. remote control model airplanes, 5. hiking, 6. horseback trail riding, 7. off-leash dogs, 8. light agriculture, 9. cellular telephone equipment and facilities, 10. picnic tables, and 11. parking for activities on Elings Park North and Elings Park South.

2. Similar Uses. City and Foundation agree that, pending a re-categorization by the City under SBMC Chapter 28.37, Elings Park South may be used for other low-impact uses comparable to those enumerated in paragraph 1, such as memorials and overlooks, low rock walls, benches, individual picnic tables, "Frisbee golf," and other uses determined by the Community Development Director to be comparable to the Existing Uses enumerated in paragraph 1. Nothing in this memorandum of understanding shall be construed to prohibit or limit the Foundation's right to seek land use approvals from the City for other uses not specifically authorized herein.

3. Street Improvements. City and Foundation agree that Foundation shall not be required to install or fund the installation of street frontage improvements along Cliff Drive or Las Positas Road (e.g., street lights, sidewalks, curbs, gutters) as a condition of any land use approval or permit resulting from an application submitted to the City prior to the date of this memorandum (including the application for annexation of Elings Park South to the City and the application for approval of a “Master Plan” on Elings Park North), so long as the property is used for public park and recreational purposes.

4. Water Rights.

a. Groundwater Extractions. City and Foundation agree that Foundation will be required sign the City’s standard agreement relinquishing the right to extract groundwater from the basins underlying Elings Park North and Elings Park South, except that such agreement shall allow the Foundation to (i) maintain and use the groundwater wells existing on the date of this memorandum of understanding located approximately 140 feet west of the end of Valerio Street (“Existing Wells”), or (ii) develop, maintain and use one or more new wells located no more than fifty feet (50’) from the Existing Wells (“New Wells”), to provide water for Elings Park, provided that (i) the combined pumping capacity of all groundwater extraction equipment on the property shall not exceed one hundred (100) gallons per minute, (ii) if one or more New Wells are developed, use of the Existing Wells shall be discontinued, and (iii) all water extracted from the wells shall be used on Elings Park North or Elings Park South.

b. Reclaimed Water Use. The Foundation agrees to use City-provided reclaimed water for (i) areas of Elings Park North that are irrigated with reclaimed water as of the date of this memorandum of understanding, (ii) all future development on Elings Park North, and (iii) all water demand on Elings Park South in excess of water demand satisfied with water from the Existing Wells or New Wells, except to the extent that (a) the Foundation submits to the City a request that the Public Works Director determine that reclaimed water is inappropriate for a specific use or application at Elings Park North, **and** (b) the City Public Works Director grants the request, which grant of request shall not be unreasonably or untimely withheld. All potable or reclaimed water service provided by the City to Elings Park shall be charged at the standard water rates for such service charged to other City customers.

5. County Covenant. Within thirty (30) days of the effective date of this memorandum of understanding, the Foundation shall submit to the Board of Supervisors of the County of Santa Barbara a request that the County Covenant be extinguished on the effective date of annexation of the Elings Park South to the City. The City shall submit to the Board of Supervisors a letter supporting the Foundation's request. It is agreed that nothing in this memorandum of understanding shall be deemed to compel the Board of Supervisors to extinguish the County Covenant.

6. Consent to Annexation. Foundation hereby consents to annexation of Elings Park South to the City. This consent shall remain in effect only so long as this memorandum remains in effect. Prior to execution of this memorandum of understanding, Foundation by separate letter has withdrawn its letter of August 15, 2005 expressing "qualified support" for the annexation.

7. Binding on Successors in Interest and Assignees. This memorandum of understanding shall run with the land and be binding on the successors-in-interest and assignees of the parties hereto.

8. Memorandum for Recordation.. The Foundation is authorized to prepare, execute and record a Memorandum of ~~Memorandum of understanding~~ reflecting the existence of this memorandum of understanding and the terms thereof.

9. Preconditions to Effectiveness of Memorandum of understanding. This memorandum shall be effective upon the occurrence of all of the following events:

- a. Execution hereof by the Foundation.
- b. Approval by ordinance and execution hereof by the City.

CITY OF SANTA BARBARA

By: _____ Date: _____
City Administrator

APPROVED AS TO FORM:
City Attorney

Attest:

City Clerk

By: _____

APPROVED AS TO CONTENT:
Public Works Director

By: _____

ELINGS PARK FOUNDATION

By: _____ Date: _____
Michael Fauver, President