

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
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Santa Barbara, CA 93101
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Agenda Number:

Prepared on: 11/08/2005
Department Name: Planning & Development
Department No.: 053
Agenda Date: December 13, 2005
Placement: Administrative
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TO: Board of Supervisors

FROM: Dianne Meester, Planning & Development Assistant Director

STAFF CONTACT: Luis Perez, Energy Specialist 568-2034
Jim Donohoe, Planner 568-2043

SUBJECT: Revise the Restrictive Use Covenant for Las Positas/Elings Park to Allow Wireless Facilities

Recommendation(s):

That the Board of Supervisors:

Execute a change to the Covenant Restricting Use for Las Positas/Elings Park to allow telecommunications facilities to be considered within the park.

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with Goal No. 1. An Efficient Government Able to Respond Effectively to the Needs of the Community.

Executive Summary and Discussion:

Verizon Wireless and Nextel have submitted applications for a co-located wireless facility proposed to be located on the Western portion of Elings Park South. The application is currently under review for permitting by the Energy Division. However, in 1998 the County and the Las Positas Park Foundation (now the Elings Park Foundation) signed a Covenant restricting the use of the Park parcel (APN 047-010-049) to passive recreation and the preservation of wildlife habitat (Attachment A). The proposed facilities would be located in an area where they would not interfere with the passive recreational uses allowed in the Park and would provide benefits to

Park users and the community. To allow this proposal to move forward for consideration by the Planning Commission, a revision to the covenant would need to be directed by the Board.

The intent of the covenant was to designate and restrict the areas in the park that could be used for active recreation, passive recreation, and limited agriculture in exchange for a \$525,000 grant from the Coastal Resource Enhancement Fund to acquire 120 acres of land. The changes proposed to the covenant would retain the intent of preserving the passive recreational areas while allowing consideration for telecommunications facilities within the passive recreational uses. The existing covenant does not explicitly prohibit telecommunications facilities, but also does not contemplate this type of use.

Currently, under the County's Zoning Ordinance and as required by the Telecommunications Act of 1996, telecommunications facilities are a permitted use in all zone districts. In this particular case, the site is zoned rural-residential and requires a Major Conditional Use Permit from the Planning Commission. It should be noted that some members of the Planning Commission have recently expressed concern over the placement of telecommunications facilities within County Parks and recreationally zoned areas. However, the Telecommunications Act of 1996 does not allow local jurisdictions the ability to outright prohibit the placement of antennas within any given zone district. Changes to the covenant would not constitute approval of the project, but would allow the project to move forward in the permit process and be considered by the Planning Commission.

The proposed project location is significant as a wireless facility due to its unique location in the Las Positas Valley. Currently there is poor or non-existent wireless service in the Las Positas area which includes the Park, Hendry's Beach, the neighborhoods along Las Positas Road, and motorists on Las Positas Road and Cliff Drive. The project would provide cellular service in these areas and could expedite contact with emergency responders in cases of emergency.

Las Elings Park Foundation does not currently receive operation funding from the County. The proposed wireless facilities would provide a continuous stream of private sector revenue for the operations of a Park that serves both City and County residents. A lease agreement has been signed by The Elings Park Foundation and the proposed wireless operators (Attachment B).

Mandates and Service Levels: Costs associated with this project are offset by permit fees paid by the applicants. This activity is identified in the Planning & Development budget under the Energy Division Telecommunications Planning Program, page D-304 of the County Budget for FY 2005-2006.

Fiscal and Facilities Impacts: Elings Park Foundation does not currently receive operation funding or support from the County.

Special Instructions: Please forward one copy of the minute order to the County Administrator's Office, Planning & Development, Parks, and County Counsel Departments. Please provide copies for the Planning Commission.

Revisions to Las Positas Park Restrictive Use Covenant
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