



CITY OF MONTCLAIR  
PLANNING COMMISSION AGENDA  
CITY COUNCIL CHAMBERS  
5111 Benito Street, Montclair, California 91763

REGULAR ADJOURNED MEETING  
Monday, May 10, 2010  
7:00 p.m.

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*It is respectfully requested that you please silence your cell phones and other electronic devices while the meeting is in session. Thank you.*

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**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

Chairman Luis Flores, Vice Chairman Sergio Sahagun, Commissioner Tenice Johnson, Commissioner Maynard Lenhert, and Commissioner Don Vodvarka

**4. APPROVAL OF MINUTES**

The minutes of the April 26, 2010 Planning Commission meetings are presented for consideration.

**5. ORAL AND WRITTEN COMMUNICATIONS ON NON-AGENDA ITEMS**

The public is invited to address the Planning Commission regarding any items that are not on the agenda. Comments should be limited to matters under the jurisdiction of the Planning Commission. It is respectfully requested that speakers limit their comments to no more than three minutes in length.

Any person wishing to address the Planning Commission on an agenda or non-agenda item should complete a speaker's card and submit it to the City Planner. Speaker's cards are available at the entrance to the Council Chambers.

## **6. AGENDA ITEMS**

- a. PUBLIC HEARING - CASE NUMBER 2010-1  
(continued from the April 26, 2010 meeting)
- |                    |                                   |
|--------------------|-----------------------------------|
| Project Address:   | 5450 Deodar Street                |
| Project Applicant: | Sprint Wireless/City of Montclair |
| Project Planner:   | Jim S. Lai, Associate Planner     |
| Request:           | Conditional Use Permit amendment  |

## **7. INFORMATION ITEMS**

Although the Planning Commission is prohibited from taking action on or discussing items not on the posted agenda, a member of the Planning Commission may ask for information, request a report back or to place a matter of business on the agenda for a subsequent meeting, ask a question for clarification, make a brief announcement, or briefly report on his or her own activities, provided the foregoing are related to, or within the jurisdiction of, the Planning Commission.

## **8. PUBLIC INSPECTION OF MATERIALS**

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection at the Planning Division counter during normal business hours.

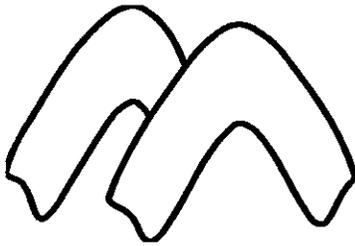
## **9. ADJOURNMENT**

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of May 10, 2010 at 7:00 p.m. in the Council Chambers, 5111 Benito Street, Montclair, California

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### **CERTIFICATION OF AGENDA POSTING**

I, Laura Berke, Administrative Secretary for the City of Montclair, hereby certify that a copy of this agenda was posted on the bulletin board adjacent to the south door of Montclair City Hall on May 6, 2010.



# CITY OF MONTCLAIR PLANNING COMMISSION

**MEETING DATE: 05/10/10**

**AGENDA ITEM 6.a**

**Case No.: 2010-1**

**Application:** Conditional Use Permit (CUP) Amendment to allow co-location & addition of Clearwire equipment on an existing 75-foot tall stealth wireless Sprint communications facility (cell tower) at the north end of MacArthur Park

**Applicant / Property Owner:**

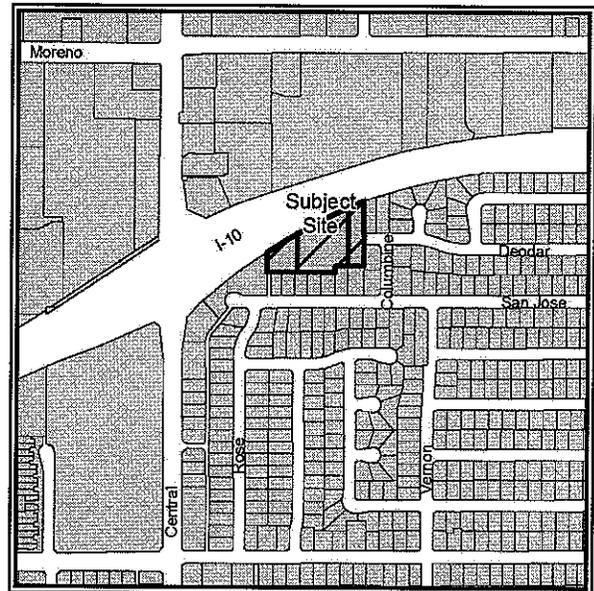
Sprint Wireless / City of Montclair

**General Plan:** Neighborhood Park

**Zoning:** R-1 (Single-Family Residential)

**Project Address:** 5450 Deodar Street (MacArthur Park)

**APN:** 1008-311-18-0000



*Location Map*

**EXISTING SITE FEATURES/CONDITIONS**

**Structures:** Public park with playground apparatus, picnic tables and benches

**Parking:** 22 on-site parking spaces

**City/Public Utility Easements:** Typical utility easements

**Trees/Significant Vegetation:** Park setting featuring turf and numerous trees of various sizes including mature Canary Island Pines, Eucalyptus, and broadleaf trees.

**ADJACENT LAND USE DESIGNATIONS AND LAND USES**

	<i>General Plan</i>	<i>Zoning</i>	<i>Use of Property</i>
<b>Site</b>	Neighborhood Park	R-1 (Single-Family Residential)	MacArthur Park
<b>North</b>	---	---	I-10 Freeway
<b>East</b>	Low Density Residential (3-7 du/ac)	R-1 (Single-Family Residential)	Single-Family Residential
<b>South</b>	Low Density Residential (3-7 du/ac)	R-1 (Single-Family Residential)	Single-Family Residential
<b>West</b>	Low Density Residential (3-7 du/ac)	R-1 (Single-Family Residential)	Church

## Report on Item Number 6.a

### PUBLIC HEARING - CASE NUMBER 2010-1

APPLICATION TYPE	Conditional Use Permit Amendment
NAME OF APPLICANT	Sprint Wireless/City of Montclair
LOCATION OF PROPERTY	5450 Deodar Street
GENERAL PLAN DESIGNATION	Neighborhood Park
ZONING DESIGNATION	R-1 (Single-Family Residential)
EXISTING LAND USE	MacArthur Park
ENVIRONMENTAL DETERMINATION	Categorical Exemption – Section 15303 (Small Existing Facilities)
PROJECT PLANNER	Jim S. Lai

### Background

On April 26, 2010, the Planning Commission continued their review and action on this item to allow time for staff to resolve questions raised by the applicant regarding proposed conditions of approval, No. 5 and 20, related to the Sprint Wireless proposal to upgrade their facility at Macarthur Park. The following are the original conditions of approval proposed by staff which is in question:

5. Prior to the issuance of any building permits to install the additional antennas and equipment cabinet to the approved wireless communications facility at MacArthur Park, the applicant (Sprint Wireless) shall obtain City approval of an amended License Agreement with the City of Montclair. Failure to obtain such approved License Agreement shall render this CUP Amendment approval null and void.

and,

20. Prior to issuance of a building permit for the addition of antennas and equipment to the existing wireless telecommunications facility, the applicant shall remit to the City a cash deposit in an amount to be determined by the Director for the purpose of removing the subject facility and all associated support equipment in the event the facility becomes abandoned, the CUP is revoked by the Director, or the applicant does not or is unable to remove the facility.

According to the applicant, the conditions do not apply as Sprint Wireless is the only carrier on the existing wireless telecommunication structure and they are merely upgrading their existing equipment to provide its Clearwire Wireless service to its customer base. Currently, Crown Castle USA owns the stealth telecommunications facility that is disguised as a "monopine" and holds the ground lease with the City of Montclair.

## **Analysis**

Staff reviewed the existing lease agreement, and has concluded that conditions No. 5 and 20 are not warranted at this time since there is no new wireless carrier being added to the site and there is no significant physical change or expansion to the existing operation. As such, staff believes conditions No. 5 and 20 should be deleted. Otherwise, there are no other issues with the proposal or remaining proposed conditions of approval.

Staff has amended the proposed resolution for the project to reflect the change. All other conditions of approval for this project have not been changed.

## **Planning Division Recommendation**

Staff recommends that the Planning Commission take the following action(s):

1. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the State CEQA Guidelines.
2. Move to approve a Conditional Use Permit Amendment under Case No. 2010-1 to allow the co-location and addition of antennas and an equipment cabinet onto an existing telecommunications facility at MacArthur Park at 5450 Deodar Street, per the submitted plans, as described in the staff report, required findings, and subject to the 35 conditions in revised Resolution Number 10-1721.

Respectfully Submitted,

Michael Diaz  
City Planner

JL/lb

Attachments: Draft Resolution of Approval for Case No. 2010-1

**RESOLUTION NO. 10-1721**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT AMENDMENT UNDER CASE NO. 2010-1 TO ALLOW THE CO-LOCATION AND ADDITION OF ANTENNAS TO AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY IN THE R-1 ZONING DISTRICT AT MACARTHUR PARK, 5450 DEODAR STREET (APN 1008-311-18).**

A. Recitals.

**WHEREAS**, on January 19, 2010, Sprint Wireless submitted an application for a Conditional Use Permit (CUP) Amendment to allow the co-location and addition of additional antennas to the existing wireless telecommunications facility at MacArthur Park, 5450 Deodar Street; and

**WHEREAS**, Chapter 11.73 of the Montclair Municipal Code governs the development of wireless telecommunications facilities within the City and provides policies and sets forth criteria, development standards and standardized conditions of approval upon which to evaluate this application; and

**WHEREAS**, the existing wireless telecommunications facility consists of a 75-foot high "monopine" structure and support equipment located within an enclosed lease area; and

**WHEREAS**, Section 11.73.100 of the Montclair Municipal Code strongly encourages co-location of wireless telecommunications facilities to minimize their numbers and the visual impact additional locations would have on the community; and

**WHEREAS**, Sprint Wireless, the current wireless carrier at the subject site, desires to add the additional antennas for its subsidiary, Clearwire Wireless LLC, to the existing facility on the subject property; and

**WHEREAS**, Sprint Wireless has identified the site as a practical location to provide enhanced services to its customers by increasing signal strength and more efficient and faster data transmission; and

**WHEREAS**, staff has determined that the application meets the intent and requirements of the Municipal Code and the applicable development standards of the Wireless Telecommunications Ordinance; and

**WHEREAS**, Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act

(CEQA) and the City's CEQA Guidelines, pursuant to Section 15303 (Class 3 – New Construction or Conversion of Small Structures). In addition, there is no substantial evidence that the project will have a significant effect on the environment. The Planning Commission has reviewed the Planning Division's determination of exemption, and based on its own independent judgment, concurs with staff's determination of exemption and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife; and

**WHEREAS**, a notice of public hearing was duly given and posted in the manner and for the time frame prescribed by law; and

**WHEREAS**, on April 26 and May 10, 2010, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted public hearings at which time all persons wishing to testify in connection with said application were heard, and said application was fully studied.

A. Resolution.

**NOW, THEREFORE**, it is hereby found, determined, and resolved by the Planning Commission of the City of Montclair as follows:

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.
2. Based upon the substantial evidence presented to this Commission during the above-referenced public hearings on April 26 and May 10, 2010, including written and oral staff reports together with public testimony, this Commission hereby finds as follows:

Conditional Use Permit Findings

- A. The proposed wireless telecommunications facility is essential or desirable to the public convenience and public welfare in that such facilities promote universal access to telecommunications services for all Montclair residents, businesses, visitors and commuters traveling through the City. In addition, the proposed wireless facility has the capability to continue to operate and provide communications service in the event of a major power outage that may cause traditional telephone service to be rendered inoperable.
- B. The proposed wireless telecommunications facility use would not create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the staff report. The antenna structure is located in a public park of sufficient size to allow its full integration within the general context of the site without significant impact to the use of the park by the public. Moreover, staff finds that the location and physical features of the monopine, which is a stealth tower designed to look

like an evergreen tree, and its associated equipment provide the best degree of aesthetic and environmental protection pertaining to on-site and surrounding uses and public areas. Lastly, all necessary building permits will be required to ensure that the facility is properly constructed and inspected.

- C. That the proposed addition of antennas to the wireless telecommunications facility use at the proposed location conforms to good zoning practice. The proposed amendment takes advantage of an existing wireless telecommunications facility that is consistent with the Wireless Telecommunications ordinance, which encourages the co-location of antennas as a means of minimizing the need for constructing more cell towers in the City. This CUP Amendment would allow the applicant to improve and expand service from an existing location with the least amount of impact.
- D. That such use in such location is not contrary to the objectives of any part of the adopted General Plan, which encourages compliance with federal law, increased emergency preparedness, enhancement of public convenience and communication, and projects which meet community design objectives and attempt to reasonably minimize undesirable aesthetic effects on adjacent properties.

#### Wireless Telecommunications Facility Findings

- A. There is adequate space and structural load capacity on the existing antenna arrays of the wireless telecommunications facility without conflicting with existing buildings or other improvements on the property, reducing required parking or landscaping, or otherwise compromising applicable development standards. The park site is approximately 2.29 acres in size and has been host to the existing wireless telecommunications facility without significant impact. The proposed wireless telecommunications facility will not eliminate any parking spaces or existing landscaping.
- B. The design and placement of the antennas and ground cabinet to the wireless telecommunications facility will not adversely impact the use of the property, buildings and structures located on the property or the surrounding area or neighborhood. The monopine is situated in a corner of the park site, blends in with other mature pine trees and will not restrict any existing park activities, while the support equipment is enclosed and shielded from view by the public visiting the park, on the street, or from neighboring properties.
- C. The proposed co-location and addition of antennas to the wireless telecommunications facility is consistent with the provisions of Chapter 11.73 and complies with all other applicable requirements of Title 11 of the Montclair Municipal Code. The new antennas and equipment will not emit excessive noise, vibration, traffic or other disturbance that would have a substantial adverse effect on abutting property or uses located on these properties. Moreover, the proposed wireless telecommunications facility meets distance requirements from

adjacent residential properties, required setbacks of the underlying district and is planned to accommodate a second carrier in the future. The proposed height and monopine design of the antenna support structure will not adversely affect appearance of the surrounding area.

3. Based upon the findings and conclusions set forth in the paragraphs above, this Commission hereby approves the application subject to each and every condition set forth below.

Planning

1. This approval is for a Conditional Use Permit (CUP) to co-locate and to add antennas, parabolic disc and a ground equipment cabinet to an existing wireless telecommunications facility located at MacArthur Park, 5450 Deodar Street, as described in the staff report and depicted on the approved plans. The approval of this permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted.
2. All applicable conditions of the original CUP and Precise Plan of Design approval for the wireless communications facility under Case No. 98-11 shall remain in force and shall be complied with.
3. No increase in the height of the monopine or expansion of the ground lease area of the existing facility shall be allowed with this CUP Amendment.
4. Prior to issuance of a building permit for the addition of all approved antennas and equipment cabinet, the applicant shall submit detailed shop drawings and/or plans for final design review and approval by the City Planner. Drawings/plans shall incorporate or address the following elements in order to correct deficiencies and to enhance the overall appearance of the monopine and associated structures:
  - a. Add additional branches to fill in gaps in the branch structure of the faux monopine tree. The new branches shall match existing branches and be of sufficient quality, quantity, length, spacing, and density to provide screening of the antennas and to achieve a natural appearance to the greatest extent possible.
  - b. Each antenna panel shall be covered with "antenna socks" that match the approved foliage color.
  - c. All "stand-off-mounts" and support pipe mounts shall be painted in a "flat" complementary finish to reduce reflection and visibility of the mounting hardware.

- d. Missing "bark" finish or paint on the support pole shall be added as necessary to restore or improve the overall appearance of the faux monopine tree.
5. Conditional Use Permit (CUP) approval shall be valid for six months from the date of Planning Commission action. If no construction drawings have been submitted to the City for plan review within this time frame or a time extension for such CUP granted, then the approval shall automatically expire without further City action.
6. Within five (5) days of approval by the Planning Commission, the applicant shall submit a check in the amount of \$50 to cover the County's administrative fee for filing a Notice of Exemption as required the California Environmental Quality Act (CEQA). The check shall be made payable to the Clerk of the Board of Supervisors.
7. The applicant and/or property owner shall ensure that a copy of the Planning Commission approval letter, including all conditions of approval, be reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the project.
8. The wireless provider shall obtain and maintain current at all times a business license issued by the City.
9. The applicant shall be responsible to fully comply with all requirements of the Federal Communications Commission (FCC) regarding electromagnetic frequency (EMF) and radiofrequency radiation (RFR) standards.
10. No advertising, signs or lighting shall be incorporated or attached to the antenna array or support facilities, except as required by the City's Building Division or federal regulations.
11. All electrical and utility connections serving the facility shall be placed underground in accordance with the requirements of the Montclair Municipal Code.
12. The applicant shall submit to the City certification of continued use of the approved facility on an annual basis at the time of business license renewal for as long as the facility remains in operation. The certification shall indicate that the facility is operating as approved and that the facility complies with the most current FCC safety standards. Facilities that are no longer in operation shall be completely removed within 90 days after the date of cessation of operation.

13. If no annual certification is provided, the CUP for the facility may be revoked by the Community Development Director. Prior to revoking a permit, the Director shall provide the owners of record written notice of their failure to provide the annual certification and an opportunity for a hearing.
14. Notice of change of ownership of the facility shall be provided in writing to the Director within 30 days of said change.
15. Within 90 days of commencement of operations, applicants shall provide a preliminary report and field report prepared by a qualified engineer that shows the operation of the facility to be in conformance with the standards established by ANSI and IEEE for safe human exposure to EMF and RFR.
16. All future changes and modifications to an approved facility, such as the addition of panel, whip, dish, omnidirectional, GPS or test antennas, shall require prior review and approval by the City.
17. The applicant and/or property owner shall be responsible for maintaining the monopine structure, antennas and artificial foliage and branches, building, ground equipment, fencing, lighting, landscaping, and all improvements in good condition and/or working order at all times. Any accumulation of trash, weeds, or debris on the property shall be removed immediately so as not to present a public nuisance. Graffiti on the screen walls, or adjacent buildings or structures shall be removed immediately by the applicant/property owner upon notification by the City.
18. The permit may be modified or revoked for failure to abide by the conditions contained herein, or in the event the use is determined to be a nuisance to surrounding properties, businesses, or community at-large.
19. A complete set of plans shall be submitted to the Montclair Police Department to determine the compatibility and non-interference with the City's public safety radio frequencies and services. Building permits shall not be issued unless it is determined that the proposal will not impact the City's radio communications systems.
20. If, as a result of the operation of the subject facility, existing or future residential, commercial or industrial properties near the site experience interference difficulties with electronic equipment (such as radios, televisions, telephones, home computers, etc.), or if public safety personnel experience interference with communications systems, the applicant shall be solely and fully responsible to correct any and all problems upon proof of such interference.

21. At no time shall equipment noise from any source exceed an exterior noise level for nighttime hours as set forth in Table 6-2 of the Montclair General Plan. Any backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 10:00 p.m. and 7:00 a.m. on weekday nights. The carrier shall take corrective action within 30 days of receipt of any reported noise complaint by the Planning Division.
22. To ensure compliance with the conditions of the approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The applicant shall contact the City to schedule an appointment for such inspections.
23. The applicant shall agree to defend, at its sole expense, any action brought against the City, its agents, officers, or employees because of the issuance of this approval; or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees for any damages, loss, court costs and attorney fees that the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

Building

24. Submit two complete sets of plans for the project, including engineered structural calculations and drawings for the proposed addition of antennas, parabolic disc and ground equipment cabinet to the monopine structure, associated facilities and utility plans, and three additional sets of architectural plans, including elevations, colors and materials, foliage addition to the monopine and lighting, if any, for review and approval by the Building and Planning Divisions.
25. Underground Service Alert shall be notified 48 hours prior to any excavation by calling 8-1-1.
26. All off-site and on-site excavation and trenching shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
27. The developer/contractor is to be responsible for reasonable periodic clean up of the construction site to avoid hazardous accumulation of combustible trash and debris.
28. Architect's/Engineer's stamp and "wet" signature are required prior to permit issuance.

29. Plans shall be submitted for plan check and approved prior to construction. The applicant shall comply with the latest adopted California Building Code and other applicable codes, ordinances and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of submitted plans.
30. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
31. All utility services to the project shall be installed underground.
32. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
33. Approval of final inspection is required prior to the use of the subject facility. Final approval by the Building Official shall be contingent upon compliance with all conditions of approval. The applicant shall contact the City to schedule an appointment for such final inspection.
34. The developer/general contractor is to be responsible for reasonable periodic clean up of the construction site to avoid hazardous accumulation of combustible trash and debris.
35. Prior to the issuance of final approval of the project, the applicant shall submit to the Building Division electronic images of all plans and records for the purpose of obtaining a building final. Electronic images shall comply with the City's Electronic Archiving Policy.

The Secretary to this Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 10TH DAY OF MAY, 2010

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: \_\_\_\_\_  
Luis Flores, Chair

ATTEST: \_\_\_\_\_  
Steve Lustro, Secretary

I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 10<sup>th</sup> day of May, 2010, by the following vote, to-wit:

AYES:

NOES:

ABSENT: