



MONTCLAIR

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

REGULAR ADJOURNED MEETING  
Monday, September 9, 2013  
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**

Chair Tenice Johnson, Vice Chair Luis Flores, Commissioner Manny Martinez, Commissioner Sergio Sahagun, and Commissioner Don Vodvarka

**4. APPROVAL OF MINUTES**

The minutes of the August 12, 2013 Planning Commission meeting 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 2008-3 'A'  
Project Address: 8821 Central Avenue  
Project Applicant: Lee Pan Montclair LLC  
Project Planner: Silvia Gutiérrez, Associate Planner  
Request: Conditional Use Permit Amendment for floor plan revisions and intensification of uses at an existing restaurant with on-sale beer and wine  
CEQA Assessment: Categorically Exempt (Section 15301)
- b. PUBLIC HEARING - CASE NUMBER 2009-11 'B'  
Project Address: 5201 Benito Street  
Project Applicant: City of Montclair  
Project Planner: Silvia Gutiérrez, Associate Planner  
Request: Conditional Use Permit Amendment to modify an existing wireless telecommunications facility  
CEQA Assessment: Categorically Exempt (Section 15303)

## 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.

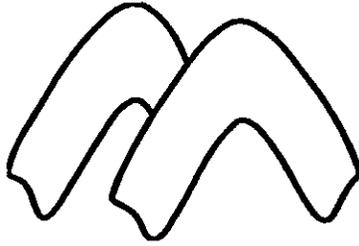
## 9. ADJOURNMENT

The City of Montclair Planning Commission is hereby adjourned to the regularly scheduled meeting of October 14, 2013 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 north door of Montclair City Hall on September 5, 2013.



**CITY OF MONTCLAIR  
PLANNING COMMISSION**

**MEETING DATE: 09/09/13**

**AGENDA ITEM 6.a**

**Case No.: 2008-3 'A'**

**Application:** Request to amend a Conditional Use Permit (CUP) to allow the addition of a beer and wine bar, outdoor dining, and live entertainment at Dolce Café and Bakery.

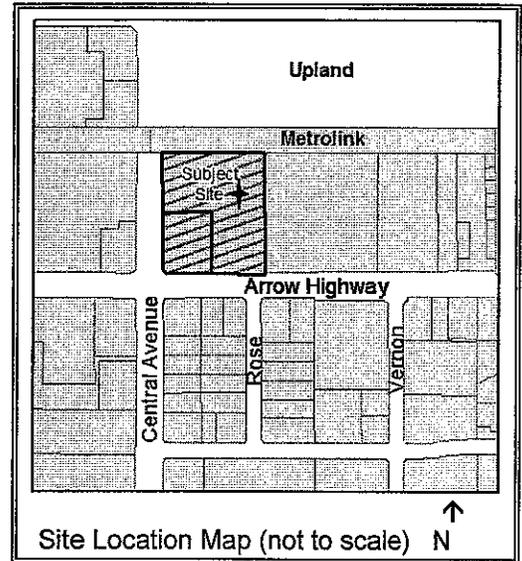
**Applicant/Property Owner:** Lee Pan Montclair, LLC

**Project Address:** 8821 Central Avenue

**APNs:** 1007-661-18 and 19

**General Plan:** Regional Commercial

**Zoning:** C-3 (General Commercial) per the North Montclair Specific Plan



**EXISTING SITE FEATURES/CONDITIONS**

**Structures:** One-story shopping center with freestanding pad building. Total floor area for the shopping center is 50,540 square feet.

**Parking:** Paved parking lot with 215 stalls, including 6 disabled-accessible spaces

**Trees/Significant Vegetation:** Existing mature trees, shrubs and ground cover

**ADJACENT LAND USE DESIGNATIONS AND LAND USES**

	<b>General Plan</b>	<b>Zoning</b>	<b>Use of Property</b>
<b>Site</b>	General Commercial	C-3 (General Commercial) per North Montclair Specific Plan	Multi-Tenant Shopping Center (Montclair Village)
<b>North</b>	Commercial/Industrial-S (City of Upland)	CH (Commercial-Highway) and ML (Limited Manufacturing) (City of Upland)	Industrial and Residential Uses (City of Upland)
<b>East</b>	Business Park	MIP (Manufacturing Industrial Park) per North Montclair Specific Plan	Vacant
<b>South</b>	General Commercial	C-3 (General Commercial) per North Montclair Specific Plan	Commercial/Retail and Service Uses
<b>West</b>	Planned Development	C-3 (General Commercial)	John's Incredible Pizza

## Report on Item Number 6.a

### PUBLIC HEARING - CASE NUMBER 2008-3 'A'

APPLICATION TYPE(S)	Conditional Use Permit Amendment
NAME OF APPLICANT	Lee Pan Montclair LLC for Dolce Café & Bakery
LOCATION OF PROPERTY	8821 Central Avenue
GENERAL PLAN DESIGNATION	General Commercial
ZONING DESIGNATION	"C-3" (General Commercial) per North Montclair Specific Plan (NMSP)
EXISTING LAND USE	Restaurant and Bakery
ENVIRONMENTAL DETERMINATION	Categorical Exemption (Section 15301)
PROJECT PLANNER	Silvia Gutiérrez

#### **Project Description**

The applicant is requesting approval of an amendment to a Conditional Use Permit granted in 2008 for the existing restaurant/bakery. The amendment would allow the creation of a beer bar area within the restaurant portion of the business where craft beers, premium wines and a specialized menu of gourmet burgers and sandwiches would be served. The restaurant currently has a Type 41 ABC license, which already allows the sale of beer and wine in conjunction with meals in the existing dining room. The proposed bar would not serve hard liquor.

A condition of the original approval for the restaurant requires that an amendment be applied for when significant changes are proposed. The addition of a bar area of 550 square feet is proposed to be located near the center of the lease space where a salad/buffet bar area previously existed between the bakery and dining room. The new bar area would consist of an actual bar counter with beers on tap, a long dining table, and a group of bistro-type tables and chairs. Flat screen televisions and music speakers are also proposed, along with live jazz and Top 40 musicians. No pool tables, video game lounge, sound stage, or dance floor type environment is proposed. Hours of operation Sunday through Thursday would remain unchanged (8:00 a.m. to 10:00 p.m.), but the applicant proposes to extend the establishment's closing time on Friday and Saturday evenings to midnight.

A second element of the proposed change is a small outdoor dining area in front of the business consisting of four tables (30 inches square or round) and 16 chairs total. The area occupied by the outdoor dining tables and chairs would be approximately 120 square feet. No alcohol service would be provided to the outdoor dining area.

A site plan, floor plan, and photographs of the restaurant interior and exterior are included in the Commission packets for reference.

## **Background**

- The Montclair Village shopping center was originally constructed in 1984 and this particular 8,000 square-foot anchor tenant space has been occupied by various retail uses over the years, including Pier 1 Imports and Gateway Country (computers).
- Dolce Café and Bakery is a family operation with a full menu consisting of freshly-made salads, soups, pasta, pizza and other cuisine. The current tenant converted the space into an upscale café and bakery in 2007 and added dinner service within its dining room in 2008.
- On February 11, 2008, the Planning Commission, under Case 2008-3, granted a CUP allowing the on-premises sale of beer and wine in conjunction with a bona fide eating establishment (Type 41 ABC license).

## **Planning Division Comments**

Staff believes the proposed amendment of the existing CUP to allow a beer bar is appropriate and, as described, is in keeping with the restaurant's high quality offering of food and desserts. Staff has visited the site on a number of occasions for inspections and as customers and has determined that the restaurant is well run and in keeping with the original CUP approval.

The beer bar (as described) would add another dimension to the establishment and is intended to help draw in more business. Staff is not opposed to the proposal as long as bona fide entrees are continually offered to patrons in the bar area as well as in the regular dining room. As such, the operation of the business would be expected to be in accordance with stipulations of the current ABC license and City approvals. With the weekday closing hour being maintained at 10:00 p.m. and extending the closing hour on Friday and Saturday only until midnight, the likelihood of problems normally associated with late hour operations involving alcohol would be largely avoided. Moreover, the business would not be age-restricted. According to the applicant, the intention is not to turn the restaurant into a venue for wild crowds but for a new quality dining option that is not currently available in the community.

The other existing tenants at the shopping center include the long-established Tokyo Kitchen Japanese Restaurant, an Indian food restaurant, and a Chinese restaurant, all with on-premises sale of alcoholic beverages. The center is not short on parking spaces at this point, and the slight change in operation of Dolce Café is not expected to have a significant impact on parking. As a large lease space, it already has a significant number of parking spaces "assigned" to its use. The other uses in the center include insurance and dental offices, a frame and art supply store, nail salon, reptile store, and an urgent care center within a freestanding building, most of which have regular business hours of generally 8:00 a.m. to 5:00 p.m.

Finally, the Police Department is not opposed to the requested changes, particularly since the proposal maintains a full-service menu, does not include pool tables and has a relatively early closing hour.

### **Conditional Use Permit Findings**

Staff believes the necessary findings for granting the CUP Amendment for the addition of a beer and wine bar, outdoor dining, and live entertainment can be made, as follows:

- A. The request to amend the existing Conditional Use Permit for Dolce Café to allow the addition of a beer and wine bar area within the existing lease space and limited outdoor dining area, is essential or desirable to the public convenience and public welfare, in that the amendment allows for a reasonable expansion of the existing facility to offer new dining options within the community. As long as alcoholic beverages are served in conjunction with a full menu and food service, the business would be in compliance with ABC requirements with the approved Type 41 ABC license ("On-Sale Beer and Wine – Eating Place") and previous City approvals.
- B. That granting the CUP amendment will not be materially detrimental to the public welfare and to other property in the vicinity, in that the addition of a beer and wine bar, limited outdoor dining and live entertainment are associated with a family-oriented restaurant in a properly designed facility with adequate on-site parking. In addition, the proposed changes to the existing use would be compatible with surrounding commercial uses and, subject to conditions of approval, will not negatively impact any sensitive land uses and/or adjacent businesses in the surrounding area.
- C. That the proposed CUP amendment conforms to good zoning practice, in that the Municipal Code allows the on-premises sale of beer and wine in a bona fide restaurant and live musical entertainment, subject to CUP approval. The CUP process also allows the City to place reasonable conditions to govern the overall operation of the restaurant use with on-sale beer and wine and live musical entertainment.
- D. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail commercial area. The proposal builds upon the successful restaurant business at the subject location.

### **Comments from the Public**

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on August 30, 2013. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement. At the time the staff report was completed, staff had not received any comments or correspondence from the public regarding this application.

## Environmental Assessment

The proposed project involves minor alterations to the existing tenant space resulting in a negligible expansion of an existing use. As such, staff has determined that this project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15301(a) of the CEQA Guidelines (Class 1 – Existing Facilities).

## Planning Division Recommendation

Staff finds the proposed addition of a beer and wine bar to the existing on-premises sale of beer and wine (ABC Type 41 license) in conjunction with a full menu and food service, limited outdoor dining and live musical entertainment (without public dancing) to a bona fide eating establishment to be consistent with City policy and all requirements of the Montclair Municipal Code, the North Montclair Specific Plan, and the adopted General Plan; therefore, approval of Case No. 2008-3 'A' is recommended by taking the following actions:

1. Move that, based upon evidence submitted, the project is deemed exempt from the requirements of the California Environmental Quality Act (CEQA). Further, the project qualifies as a Class 3 exemption under State CEQA Guidelines Section 15303.
2. Move to approve a Conditional Use Permit Amendment to allow the addition of a beer and wine bar to an existing, bona fide eating establishment with on-premises sale of beer and wine (Type 41 ABC license), the addition of an outdoor dining area (without alcohol consumption), and approval of live entertainment in the form of a live band without public dancing, per the submitted plans, as described in the staff report, and required findings subject to the conditions in the attached Resolution.

Respectfully Submitted,



Michael Diaz  
City Planner

SG/lb

Attachments: Draft Resolution of Approval for Case No. 2008-3 'A'

c: Jimmy Lee, Lee Pan Montclair, LLC, 3212 Orlando Road, Pasadena, CA 91107  
Alice Lee, Dolce Café and Bakery, 1425 Florence Court, Upland, CA 91786  
Angela Reveles, State of CA Dept of Alcoholic Beverage Control, 3737 Main Street, Suite 900,  
Riverside, CA 92501  
Lieutenant Brian Ventura, Montclair Police Department

Z:\COMMDEV\SG\CASES\2008-3A RPT -8821 CENTRAL

**RESOLUTION NUMBER 13-1789**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT AMENDMENT UNDER CASE NO. 2008-3 'A' TO ALLOW A BEER AND WINE BAR IN CONJUNCTION WITH THE ON-PREMISES SALE OF BEER AND WINE (TYPE 41 ABC LICENSE), OUTDOOR DINING AREA (16 SEATS) AND LIVE ENTERTAINMENT IN THE C-3 ("GENERAL COMMERCIAL") LAND USE DISTRICT OF THE NORTH MONTCLAIR SPECIFIC PLAN AT 8821 CENTRAL AVENUE (APN 1007-661-18 and 19)**

A. Recitals.

**WHEREAS**, on August 6, 2013, Alice Lee of Dolce Café and Bakery, with the consent of the property owner, Lee Pan Montclair LLC, filed an application to amend an existing Conditional Use Permit (CUP) to allow a beer and wine bar in conjunction with on-sale of beer and wine, a 120 square-foot outdoor dining area (16 seats) and live entertainment (no dancing) at the above-referenced location; and

**WHEREAS**, Chapter 11.78.030.B of the Montclair Municipal Code requires a CUP amendment for such use upon review of development standards and land use compatibility with surrounding properties; and

**WHEREAS**, staff has determined that the proposal meets the intent and requirements of the ordinance for such use and the applicable development standards of the C-3 ("General Commercial") land use district of the North Montclair Specific Plan; and

**WHEREAS**, staff has determined that the proposed addition of a beer and wine bar in conjunction with the on-premises sale of beer and wine, a 120 square-foot outdoor dining area (16 seats) and live entertainment could not have a significant effect on the environment ; 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 September 9, 2013, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said CUP amendment were heard, and said CUP was fully studied.

B. 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 hearing on September 9, 2013, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:
  - a. The request to amend the existing Conditional Use Permit for Dolce Café to allow the addition of a beer and wine bar area within the existing lease space and limited outdoor dining area, is essential or desirable to the public convenience and public welfare, in that the amendment allows for a reasonable expansion of the existing facility to offer new dining options within the community. As long as alcoholic beverages are served in conjunction with a full menu and food service, the business would be in compliance with ABC requirements with the approved Type 41 ABC license ("On-Sale Beer and Wine – Eating Place") and previous City approvals.
  - b. That granting the CUP amendment will not be materially detrimental to the public welfare and to other property in the vicinity, in that the addition of a beer and wine bar, limited outdoor dining and live entertainment are associated with a family-oriented restaurant in a properly designed facility with adequate on-site parking. In addition, the proposed changes to the existing use would be compatible with surrounding commercial uses and, subject to conditions of approval, will not negatively impact any sensitive land uses and/or adjacent businesses in the surrounding area.
  - c. That the proposed CUP amendment conforms to good zoning practice, in that the Municipal Code allows the on-premises sale of beer and wine in a bona fide restaurant and live musical entertainment, subject to CUP approval. The CUP process also allows the City to place reasonable conditions to govern the overall operation of the restaurant use with on-sale beer and wine and live musical entertainment.
  - d. That such use in such location is not contrary to the objective of any part of the adopted General Plan, in that the adopted General Plan encourages a wide range of retail and service uses within the retail commercial area. The proposal builds upon the successful restaurant business at the subject location.

#### Planning

1. This approval is for a CUP amendment to allow the following changes at Dolce Café and Bakery, 8821 Central Avenue, per approved plans on file with the Planning Division:

- a. The addition of a beer and wine bar area of 550 square feet to be located near the center of the lease space where a salad/buffet bar area previously existed between the bakery and dining room.
  - b. Outdoor dining area at the front of the business located southeast of the front entry and consisting of a maximum of four tables and 16 chairs.
  - c. Live entertainment, subject to Police Department approval of a Live Entertainment Permit.
2. Any substantial changes to the operation, increase in floor area of the demised space, physical location, or upgrade of license to full alcohol (distilled spirits) sales shall require prior City approval. Any discontinuation or substantial changes to the full service restaurant without City approval shall be a violation of this CUP and may be cause for revocation. Upon transfer, sale or re-assignment of the restaurant to another individual or entity, the applicant shall make full disclosure of the CUP requirements and restrictions to future buyers, transferees or assignees.
  3. This Conditional Use Permit (CUP) Amendment approval shall be valid for a period of six months from the date of Planning Commission approval and shall automatically expire on the six-month anniversary date of Planning Commission action, unless the applicant is diligently pursuing building plan check toward eventual construction or implementation of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's CUP expiration date.
  4. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
    - a. A check in the amount of \$50, payable to "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Quality Act (CEQA).
    - b. A check to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law. Checks shall be made payable to the "City of Montclair."
  5. The restaurant shall be operated, maintained and open to the general public as a full service (bona fide) eating establishment, serving meals at all times that beer and wine are offered for sale and consumption on the premises. At no time shall the premises be converted into other uses where minors are generally excluded, such as a bar, sports bar, entertainment venue, night

club, dance hall or banquet hall operated by either the restaurant owner or outside vendors or promoters.

6. Approved hours of operation for the restaurant are Sunday through Thursday from 8:00 a.m. to 10:00 p.m., and Friday and Saturday from 8:00 a.m. to midnight. No alcoholic beverages shall be served past the evening closing hours. The applicant may close the restaurant earlier than those stated herein. Any changes to the restaurant hours shall require written notification to the Planning Division and subject to City approval.
7. Take-out, off-sale, or "to go" beer and wine sales shall not be permitted under this approval. Furthermore, no alcoholic beverage is allowed to be served or consumed outside of the demised tenant space, including within the outdoor dining area. Applicant shall post notification of this limitation in English and Spanish within plain view of employees and customers.
8. The applicant shall maintain the appropriate Type 41 license current from the Department of Alcoholic Beverage Control (ABC), and demonstrate to the Planning Division that all necessary conditions have been met.
9. A copy of this Planning Commission Resolution with all conditions of approval relating to this application shall be conspicuously posted alongside the establishment's business license and Certificate of Occupancy, and shall be made available for viewing to any law enforcement or code enforcement officers, fire and building inspectors in the course of conducting an inspection or bar check on said premises.
10. No window signs either inside or outside, illuminated or not, or signs placed inside the business directed toward the outside shall advertise the availability of beer and wine for purchase.
11. The business owner shall be responsible to apply for a separate Entertainment Permit, to be reviewed and approved by the Montclair Police Department. Entertainment Permit applications shall be obtained at the Finance Division at City Hall (909/625-9423). The application shall be submitted along with a signed copy of the Planning Commission's Resolution of Approval for the project. Prior to commencing entertainment activities, a copy of an approved Entertainment Permit must be submitted to the Planning Division.
12. Occasional rental of the dining room for a private event/function shall be allowed only when the event/function is hosted by the restaurant owner and not contracted out to a third party. Entry fees or cover charges for entertainment shall be prohibited. All conditions of this approval shall continue to apply, including day and time restrictions, and requirements to serve full meals with alcoholic beverages.

13. Temporary promotional signs shall comply with Chapter 11.72 of the Montclair Municipal Code, including but not limited to, the following:
  - a. Temporary banners for the purpose of announcing the grand opening or advertising promotions shall require banner permits from the Planning Division prior to installation.
  - b. Promotional window signs shall not occupy more than 25 percent of the aggregate window area.
    - a. At no time shall pennants, inflatable signs, "human" signs, other similar advertising devices be utilized on the property or off-site.
14. This CUP amendment may be modified or revoked for failure to abide by these conditions or in the event that the use is determined to be a nuisance to surrounding properties, businesses or the community at large.
15. The following mandatory conditions are hereby imposed as part of the CUP amendment approval:
  - a. The premises shall be maintained at all times in a neat and orderly manner.
  - b. Trash receptacles shall be provided in such number and at such locations as may be specified by the Planning Commission.
  - c. No beer and wine shall be sold, dispensed or offered for consumption except within the permitted premises, which shall consist of a wholly enclosed building, except as otherwise permitted by the Planning Commission.
  - d. The exterior appearance of the premises shall be designed and maintained in a manner consistent with the exterior appearance of commercial properties already constructed within the immediate neighborhood so as not to cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
  - e. The permittee shall comply with all State statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
  - f. The permittee shall acknowledge and agree that the City has a legitimate and compelling governmental interest in permittee's strict compliance with all conditions imposed upon the permit, including adherence to State statutes, rules and regulations as specified in subsection (e) above. The permittee shall further acknowledge and agree, in writing, that any violation of a State statute, rule or regulation

concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the City to have a deleterious secondary effect upon:

- i. The specific land use requested by the permittee and authorized by the City;
- ii. The compatibility of permittee's authorized land use with adjacent land uses;
- iii. The welfare and safety of the general public within the City.

In view of such deleterious secondary effects, permittee shall acknowledge that the City has specifically reserved the right and authority to impose sanctions, including suspension or revocation of the CUP Amendment, as a consequence of one or more violations of a State statute, rule or regulation concerning the sale to or consumption of beer and wine by a minor.

- g. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to the imposition of such additional conditions as may be reasonable and necessary to address problems of land use compatibility, security, or crime control that have arisen since the issuance of the permit.
16. 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.

#### Police

17. The applicant may be required to provide a security guard at the discretion of the Montclair Police Department if security concerns warrant such adjustment.

#### Building

18. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number. The applicant shall comply with the latest adopted California Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application.

19. Total occupancy of the interior restaurant shall not exceed 128 at any one time. Occupancy limits shall be clearly posted near all entrances/exits.
20. A 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.
21. 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.
22. All construction work carried out under the review of the Building Division shall be of good quality. The Building Official shall have the authority to enforce the installation of work that is straight, level, plumb, square, etc., as the situation requires. All work shall be well fit and of a durable nature. Paint and stucco in all cases shall not be below standard for the use applied.

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

APPROVED AND ADOPTED THIS 9TH DAY OF SEPTEMBER, 2013.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: \_\_\_\_\_  
Tenice Johnson, Chair

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

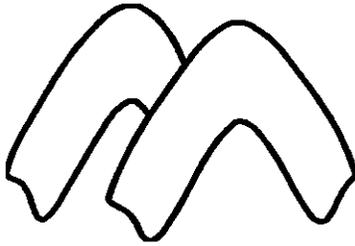
I, Steve Lustro, Secretary of the Planning Commission of the City of Montclair, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Montclair, at a regular meeting of the Planning Commission conducted on the 9th day of September, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

Z:\COMMDEV\SG\CASES\2008-3\A'



# CITY OF MONTCLAIR PLANNING COMMISSION

**MEETING DATE: 09/09/13**

**AGENDA ITEM 6.b**

**Case No.: 2009-11 'B'**

**Application:** Request to amend an existing Conditional Use Permit (CUP) to allow the co-location of antennas and associated ground support equipment for Verizon Wireless on an existing 70-foot high wireless telecommunications tower (disguised as a "faux" pine tree) at Alma Hofman Park.

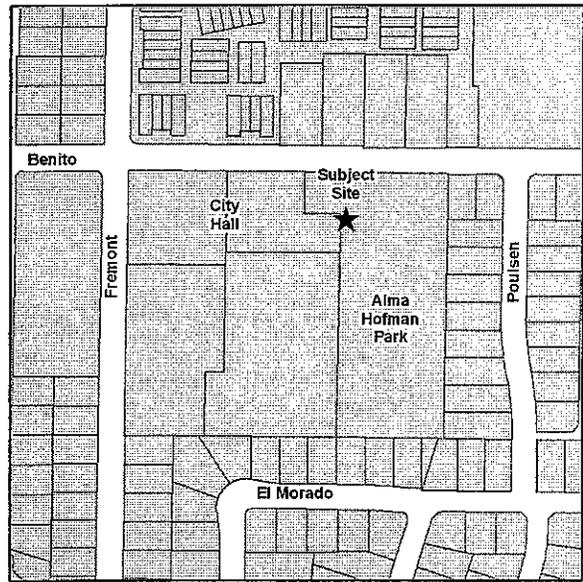
**Applicant/Property Owner:** Verizon Wireless / City of Montclair

**General Plan:** Neighborhood Park

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

**Project Address:** 5201 Benito Street

**APNs:** 1010-301-17 & 18



**EXISTING SITE FEATURES/CONDITIONS**

**Structures:** Community park that includes lighted tennis and basketball courts, skate park, splash pad, children's playground, benches and tables

**Parking:** 66 parking spaces

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

**ADJACENT LAND USE DESIGNATIONS AND LAND USES**

	<b>General Plan</b>	<b>Zoning</b>	<b>Use of Property</b>
<b>Site</b>	Neighborhood Park	R-1 (Single-Family Residential)	Alma Hofman Park
<b>North</b>	Public/Quasi-Public	AP (Administrative Professional)	U.S. Post Office/Offices
<b>East</b>	Low Residential (3-7 du/ac)	R-1 (Single-Family Residential)	Single-Family Residential
<b>South</b>	Low Residential (3-7 du/ac)	R-1 (Single-Family Residential)	Alma Hofman Park and Single-Family Residential
<b>West</b>	Public/Quasi-Public	R-1 (Single-Family Residential)	Civic Center

## Report on Item Number 6.b

### CASE NUMBER 2009-11 'B'

APPLICATION TYPE(S)	Conditional Use Permit Amendment
NAME OF APPLICANT	Verizon Wireless / City of Montclair
LOCATION OF PROPERTY	5201 Benito Street
GENERAL PLAN DESIGNATION	Neighborhood Park
ZONING DESIGNATION	R-1 (Single-Family Residential)
EXISTING LAND USE	Alma Hofman Park
ENVIRONMENTAL DETERMINATION	Categorical Exemption – Section 15303
PROJECT PLANNER	Silvia Gutiérrez

#### **Project Description**

Verizon Wireless is requesting approval to amend a previously-approved Conditional Use Permit (CUP) to allow the co-location of its antennas on an existing 70-foot-high wireless telecommunications facility/structure at Alma Hofman Park. The new antennas proposed to be added to the structure for Verizon Wireless are intended to improve cell phone coverage for its customers in the area.

The existing wireless telecommunications facility/structure was installed in 2009 and is designed to resemble an evergreen pine tree (also referred as "monopine"). Currently, T-Mobile has approval for its antennas to be placed on and operate from the existing monopine and related ground equipment. The existing monopine is located south of the skate park entrance and is set back approximately 135 feet from the south curb of Benito Street. No change to the immediate ground area beneath the monopine structure is proposed.

A total of twelve (12) new antenna panels divided into 3 sectors (4 panels each) and one parabolic dish will be installed on the existing monopine for the new carrier. The antenna panels will be mounted approximately 50 feet high and the parabolic dish at 45 feet. The ground mounted support equipment for the new Verizon Wireless antennas will be in a new enclosure area at the southeast corner of the adjacent parking lot behind the Youth Center. The proposed equipment lease area would be approximately 21' by 26' (546 square feet). Plans for the project are included in the Commission packets for reference. Verizon has also provided photo simulations to demonstrate how the antennas would appear (Exhibit "A").

#### **Background**

- On August 24, 2009, the Planning Commission approved Case No. 2009-11 granting a Conditional Use Permit, Precise Plan of Design and Variance to allow the

subject wireless telecommunications facility at Alma Hofman Park. The area occupied by the monopine structure itself measured 22' X 22' for a total of 454 square feet. Ground mounted support equipment and electrical connections were contained in a small adjacent secured area.

- Co-location of wireless carriers at existing sites is encouraged by the City's ordinance regulating wireless telecommunications facilities. Wherever feasible, carriers would be allowed and encouraged to co-locate in order to improve service to the area without the expense and impact of building numerous cell facilities for each individual carrier throughout the community.
- The Federal Telecommunications Act of 1996 precludes local governments from banning cellular transmission sites based on health concerns about the dangers of exposure to radiofrequency radiation (RFR) and electromagnetic frequency (EMF). This is due to inconclusive evidence about the health risk of exposure to RFR and EMF. Cities and counties retain discretion over design and location of the sites but cannot exclude them. Therefore, the Planning Commission is reminded that it cannot consider any environmental effects of emissions that otherwise comply with FCC regulations, including purported impacts upon health or alleged interference with television reception, in its decision to approve or deny the project.
- The Montclair Municipal Code permits wireless telecommunications facilities subject to the approval of a Conditional Use Permit (CUP) Amendment pursuant to Chapter 11.73 (Wireless Telecommunications Facilities) for expansions to lease area. The wireless ordinance provides policies and direction, clarifies existing codes, and sets forth reasonable criteria, development standards and standardized conditions of approval upon which staff is using to evaluate this application.

### **Planning Division Comments**

As previously indicated, the purpose for the proposed co-location on the existing wireless telecommunications facility is to improve service capacity and reception for Verizon customers in this area of the City. Demand for antenna co-location on existing cell towers is driven by the number of subscribers and by the addition of text, photo and video messaging services to the communications system. Service propagation maps prepared by the applicant indicate a large area of weak service in the central area of the City that would be significantly remedied by the proposed antennas.

According to Verizon representatives, the subject facility location is one of the very few available areas in this portion of the City where a co-location could be allowed in accordance with City's Wireless Telecommunications Ordinance. As such, the applicant is desirous of obtaining approval so that its customers can enjoy the benefits of upgraded 4 Long Term Evolution (LTE) Service.

Before building permits can be obtained to install the new antennas on the wireless communications facility at Alma Hofman Park, Verizon would be required to obtain

separate City Council approval of a License and Lease Agreement with the City of Montclair.

### Conditional Use Permit Amendment

The proposed co-location of antennas for Verizon Wireless on the existing wireless telecommunications facility can be adequately accommodated with little to no impact on the appearance or operation of the existing facility. At 70 feet in overall height, the existing monopine structure is of sufficient height to allow the proposed installation of antennas for the new carrier. The height of the monopine structure remains unchanged and with specific conditions the new antennas can be satisfactorily integrated into the faux foliage of the "tree."

As for the use of the existing park land there would be no impact. The co-location does not require the use of more land area of the park, remove or alter any existing landscaping, or make any significant physical changes to the land area beneath the existing monopine. All ground-mounted equipment used to support the new antennas would be integrated into a secure area in a little-used corner of the adjacent parking lot south of the Youth Center that is not available to the public for parking. The site would be unstaffed and would require only general maintenance approximately once a month. Access to the ground equipment for the new carrier would be from the park side of the existing masonry wall via a new gate and would not require any City personnel to be present when maintenance is performed.

Moreover, the proposed addition of a new carrier to the existing wireless telecommunications facility meets the same criteria used to establish the facility in 2009. Since the new proposal utilizes the existing support structure (i.e., monopine) the setback distances from adjacent residences on the west and south sides of the public park remain unchanged, and there is no change in height that would conflict with the variance granted for height when the structure was originally approved.

### Appearance

The design of the proposed co-location is anticipated to integrate well into the existing monopine and is appropriate for the park setting in which it would be located. The monopine design provides "camouflage" for the antennas to mitigate potential visual impacts of the structure to the greatest extent possible. The existing tree was largely successful in being integrated into the existing park setting and appearing like a tree.

The applicant is aware of the City's desire to see that both the existing and new antennas are effectively integrated (i.e., "camouflaged") into the overall form and appearance of the faux tree and maintained as such at all times. Conditions addressing these issues have been included in the resolution prepared for this project.

## **Conditional Use Permit Findings**

- A. The proposed co-location of antennas on the existing 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 citizens, businesses, visitors and commuters traveling through the City. In addition, the proposed co-location of antennas at the facility will expand the capability of an additional provider 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 co-location of antennas on the existing wireless telecommunications facility 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 existing 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 existing monopine, which is a stealth tower designed to look like an evergreen tree, and its associated equipment provide the best degree of both 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. In sum, no threats to public health or safety have been identified for this proposal.
- C. That the proposed co-location of antennas on the existing wireless telecommunications facility at the proposed location conforms to good zoning practice. In accordance with the City's wireless ordinance and other applicable portions of the Zoning Code, the existing wireless communication facility is located in a public park, meets required setbacks, and was granted a variance for the overall height of the support structure. The CUP amendment sought by the applicant would not require or result in a change to any of these site characteristics. In addition, all associated support equipment for the new wireless carrier will be installed in a screened, secure portion of the adjacent parking lot behind the Youth Center. With the careful integration of the new antennas as required by conditions of approval, the co-location should not result in any significant or discernible change in the appearance of the existing monopine structure or of Alma Hofman Park.
- D. That such use in such location is not contrary to the objectives of any part of the adopted General Plan, which encourage 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**

Staff further finds the proposed co-location of new antennas on the existing wireless telecommunications facility to be consistent with Chapter 11.73 of the Montclair Municipal Code, and believes the necessary findings for allowing the establishment of such a facility can be made as follows:

- A. There is adequate space on the property for 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. Alma Hofman Park is approximately 3.95 acres in size and developed in a manner that will easily accommodate the project without significant impact. The proposed co-location on the existing wireless telecommunications facility does not require additional ground area of the park and does not eliminate existing landscaping.
- B. The design and placement of the co-location of additional antennas to serve a new carrier on an existing 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 proposed co-location on the existing monopine is designed to take advantage of an already approved support structure and will not restrict any existing park activities. Ground-mounted support equipment will be located behind existing block walls and away from the view of the public visiting the park, on the street, or from neighboring properties.
- C. The co-location of antennas on the existing wireless telecommunications facility, as proposed, 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 facility 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 existing wireless telecommunications facility meets distance requirements from adjacent residential properties and the required setbacks of the underlying district. The proposed changes to the appearance of the monopine will not adversely affect the appearance of the surrounding area.

## **Public Notice**

This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper on August 30, 2013. Public hearing notices were also mailed to property owners within a 300-foot radius of the exterior boundaries of the project site in accordance with State law for consideration of this discretionary zoning entitlement. At the time the staff report was completed, staff had not received any comments or correspondence from the public regarding this application.

## Environmental Assessment

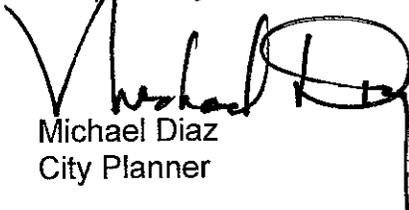
The proposed project involves installation of small, new structures on a developed site. As such, staff has determined that this project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines (Class 3 – New Construction or Conversion of Small Structures).

## 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). Further, the project qualifies as a Class 3 Exemption under State CEQA Guidelines Section 15303.
2. Move to approve a Conditional Use Permit Amendment under Case No. 2009-11 'B' to allow co-location of antennas and expansion of the lease area at an existing wireless telecommunications facility at Alma Hofman Park, 5201 Benito Street, per the submitted plans, as described in the staff report, and required findings subject to the conditions in the attached Resolution.

Respectfully Submitted,



Michael Diaz  
City Planner

SG/lb

Attachments: Draft Resolution of Approval for Case No. 2009-11 'B'

c: James Rogers, Planner, Smartlink, LLC for Verizon, 18301 Von Karman Avenue, Suite 910,  
Irvine, CA 92612  
Marilyn J. Staats, Deputy City Manager/Executive Director, Office of Economic Development  
Michael C. Hudson, P.E., Public Works Director/City Engineer  
Merry L. Westerlin, C.B.O., Building Official

## RESOLUTION NO. 13-1788

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTCLAIR APPROVING A CONDITIONAL USE PERMIT AMENDMENT UNDER CASE NO. 2009-11 'B' TO ALLOW THE CO-LOCATION OF ANTENNAS AND ASSOCIATED GROUND SUPPORT EQUIPMENT FOR AN ADDITIONAL WIRELESS CARRIER ON AN EXISTING 70-FOOT HIGH WIRELESS TELECOMMUNICATIONS FACILITY ("MONOPINE") AT ALMA HOFMAN PARK, 5201 BENITO STREET (APN 1010-301-17 & 18)**

A. Recitals.

**WHEREAS**, on August 8, 2013, the City of Montclair, in conjunction with Verizon Wireless consultant Smart Link, LLC, initiated an application to amend an existing Conditional Use Permit (Case No. 2009-11) to allow the co-location of antennas and associated support equipment on an existing wireless telecommunications facility at Alma Hofman Park; and

**WHEREAS**, the existing telecommunications facility/structure consists of a 70-foot high structure designed as a faux pine tree (referred to as a "monopine") and a secure ground lease area for support equipment located directly south of the existing skate park at Alma Hofman Park; and

**WHEREAS**, the proposed project involves the addition of twelve (12) new antenna panels divided into three sectors (4 panels each) and one parabolic dish to be installed on the existing monopine for the new carrier. The antenna panels will be mounted at approximately 50 feet in height and the parabolic dish at 45 feet; and

**WHEREAS**, the ground-mounted support equipment for the Verizon Wireless antennas will be in a new enclosure area at the southeast corner of the adjacent parking lot south of the Youth Center. The proposed equipment lease area would be approximately 21' by 26' (546 square feet); and

**WHEREAS**, the proposed design and placement of the antennas for the new carrier will be integrated into the overall appearance of the existing monopine; 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**, 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**, Verizon Wireless, the wireless carrier desiring to co-locate its antennas on the existing wireless telecommunications facility on the subject property, has identified the site as a practical location in central Montclair to do so in order to provide enhanced services to its customers by increasing signal strength and minimizing dropped calls; 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; 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 September 9, 2013, commencing at 7:00 p.m. in the Council Chamber at Montclair City Hall, the Planning Commission conducted a public hearing 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 hearing on September 9, 2013, including written and oral staff reports, together with public testimony, this Commission hereby finds as follows:

Conditional Use Permit Amendment Findings

- A. The proposed co-location of antennas on the existing 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 citizens, businesses, visitors and commuters traveling through the City. In addition, the proposed co-location of antenna wireless facility will expand the capability of an additional provider 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 co-location of antennas on the existing wireless telecommunications facility 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 existing 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 existing monopine, which is a stealth tower designed to look like an evergreen tree, and its associated equipment provide the best degree of both 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. In sum, no threats to public health or safety have been identified for this proposal.
  
- C. That the proposed co-location of antennas on the existing wireless telecommunications facility at the proposed location conforms to good zoning practice. In accordance with the City's wireless ordinance and other applicable portions of the Zoning Code, the existing wireless communication facility is located in a public park, meets required setbacks, and was granted a variance for the overall height of the support structure. The CUP amendment sought by the applicant would not require or result in a change to any of these site characteristics. In addition, all associated support equipment for the new wireless carrier will be installed in a screened, secure portion of the adjacent parking lot behind the Youth Center. With the careful integration of the new antennas as required by conditions of approval, the co-location should not result in any significant or discernible change in the appearance of the existing monopine structure or of Alma Hofman Park.
  
- D. That such use in such location is not contrary to the objectives of any part of the adopted General Plan, which encourage 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 on the property for 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. Alma Hofman Park is approximately 3.95 acres in size and developed in a manner that will easily accommodate the project without significant impact. The proposed co-location on the existing wireless telecommunications facility does not require additional ground area of the park and does not eliminate existing landscaping.
  - B. The design and placement of the co-location of additional antennas to serve a new carrier on an existing 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 proposed co-location on the existing monopine is designed to take advantage of an already approved support structure and will not restrict any existing park activities. Ground-mounted support equipment will be located behind existing block walls and away from the view of the public visiting the park, on the street, or from neighboring properties.
  - C. The co-location of antennas on the existing wireless telecommunications facility, as proposed, 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 facility 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 existing wireless telecommunications facility meets distance requirements from adjacent residential properties and the required setbacks of the underlying district. The proposed changes to the appearance of the monopine will not adversely affect the 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 Amendment to allow the following improvements associated with the co-location of an additional wireless carrier at the existing wireless telecommunications facility (monopine) located at Alma Hofman Park, 5201 Benito Street, as depicted on approved plans on file with the Planning Division:

- a. Twelve (12) new antenna panels divided into three sectors (4 panels each) and one parabolic dish to be installed on the existing monopine for the new carrier. The antenna panels shall be mounted at approximately 50 feet in height and the parabolic dish at 45 feet.
  - b. A ground lease area for support equipment associated with the new antennas at the southeast corner of the adjacent parking lot behind the Youth Center. The proposed equipment lease area shall be no larger than 21' by 26' (546 square feet), and secured to the satisfaction of the Public Works Director.
2. All applicable conditions of approval for Case No. 2009-11 approving the installation of the existing wireless telecommunications facility at Alma Hofman Park as contained in Planning Commission Resolution Nos. 09-1700 and 09-1701 shall remain in effect.
3. Prior to the issuance of any building or grading permits to construct the approved wireless communications facility at Alma Hofman Park, Verizon Wireless shall obtain City Council approval of a License Agreement with the City of Montclair. As part of the License Agreement, the applicant shall purchase two trash receptacles for use at Alma Hofman Park. Design and placement of said trash receptacles shall be subject to approval by the Public Works Director. Failure to obtain an approved License Agreement shall render this CUP approval null and void.
4. Approval of this Conditional Use Permit (CUP) Amendment 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 amendment granted, then the approval shall automatically expire without further City action.
5. Within five (5) days of approval by the Planning Commission, the applicant shall submit the following payments to the Planning Division:
  - a. A check in the amount of \$50, payable to "Clerk of the Board of Supervisors," to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Quality Act (CEQA).
  - b. A check to cover the actual cost of publishing a Notice of Public Hearing in a newspaper of general circulation (Inland Valley Daily Bulletin) as required by state law. Checks shall be made payable to the "City of Montclair."

6. 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.
7. The wireless provider shall obtain and maintain current at all times a business license issued by the City.
8. The co-location to the existing wireless telecommunications facility and associated support equipment shall be constructed in substantial compliance with plans reviewed and approved by the Planning Commission.
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. Prior to issuance of a building permit, the applicant shall submit the following:
  - a. Revised plans to accurately depict existing field conditions and address Public Works Director/City Engineer comments regarding access to the location of the associated antenna support equipment. Final plans shall be subject to the approval of the Public Works Director/City Engineer.
  - b. Add a note to the site plan that states that a minimum of two inches of mulch shall be added to the landscape area at the base of the monopine. Final plans shall be subject to the satisfaction of the Public Works Director.
  - c. Remit to the City a deposit or post a bond 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.
11. Prior to issuance of a building permit, the applicant shall submit detailed shop drawings and/or plans for the proposed installation and screening of new antennas on the existing monopine for final design review and approval by the City Planner. Drawings/plans shall incorporate or address the following elements:
  - a. Artificial branches and foliage shall be of sufficient quality, quantity, length, spacing, and density to provide screening of the antennas

and to achieve a natural appearance of the pine tree 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.
12. 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.
  13. All electrical and utility connections serving the facility shall be placed underground in accordance with the requirements of the Montclair Municipal Code.
  14. 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 cessation of operation.
  15. If no annual certification is provided, the CUP Amendment for the facility may be revoked by the 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.
  16. Notice of change of ownership of the co-location carrier shall be provided in writing to the Director within 30 days of said change.
  17. 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.
  18. 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.
  19. The applicant and/or property owner shall be responsible for maintaining the co-located 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.

20. 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.
21. 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.
22. 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.
23. All graffiti and other forms of vandalism and damage to the wireless telecommunication facility shall be removed and/or repaired within 72 hours of notice by the City.
24. 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.
25. 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

26. Submit two complete sets of plans for the project, including engineered structural calculations and drawings for 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.

27. Underground Service Alert shall be notified 48 hours prior to any excavation by calling 8-1-1.
28. All on- and off-site excavation and trenching shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
29. 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.
30. Architect's/Engineer's stamp and "wet" signature are required prior to permit issuance.
31. 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.
32. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
33. Separate permits are required for fencing and/or walls.
34. All utility services to the project shall be installed underground.
35. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number. The applicant shall comply with the latest adopted California Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application.
36. Construction activity shall only be permitted from the hours of 7:00 a.m. to 8:00 p.m. daily.
37. A 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.
38. 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 9TH DAY OF SEPTEMBER, 2013.

PLANNING COMMISSION OF THE CITY OF MONTCLAIR, CALIFORNIA

By: \_\_\_\_\_  
Tenice Johnson, 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 9th day of September, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT: