

PLANNING COMMISSION

Agenda Item No.: _____
Date: January 12, 2010

CASE NUMBER: PHG 09-0030

APPLICANT: Mark Phillips, M&M Telecom, Inc, representing Clearwire/Sprint

LOCATION: On the eastern side of Citrus Avenue, between Mountain View Drive and Glenridge Road, addressed as 1118 South Citrus Avenue.

TYPE OF PROJECT: Modification to Conditional Use Permit

PROJECT DESCRIPTION: A request for a modification to a previously approved Conditional Use Permit (2000-19-CUP) to add antennas and equipment to an existing wireless communication facility at Mountain View Park. Sprint/Nextel has six existing antennas mounted to a 70-foot-tall baseball field light pole. Clearwire proposes to remove three of the antennas and add three panel antennas and three round directional antennas to the pole. New, associated equipment would be located within the existing equipment enclosure.

STAFF RECOMMENDATION: Approval

GENERAL PLAN DESIGNATION/TIER: Public
Tier 1-Midway subarea

ZONING: OS-P (Open Space - Parks)

BACKGROUND/SUMMARY OF ISSUES:

A Conditional Use Permit (2000-19-CUP) was approved by the Planning Commission on September 26, 2000, for a wireless facility for Sprint at Mountain View Park. The facility consisted of nine panel antennas (although only six were installed) mounted on an existing 70-foot-high baseball field light pole and a 200 SF, 6-foot-high block equipment enclosure. The baseball field is located in the center of the park.

Clearwire is a subscription based internet service provider, which is 51% owned by Sprint/Nextel. They currently have sites in many states and are proposing a new network in Escondido with approximately 23 sites. Clearwire's sites are interconnected, which means that one site, without others, is non-functional. Many, but not all of the proposed facilities in Escondido would be co-located or associated with existing Sprint sites.

Clearwire is requesting to co-locate a new wireless communications facility on the light pole. Only six of the nine originally approved antennas were installed by Sprint. Clearwire proposes to remove three of the existing antennas on the pole and install three panel antennas and three round directional antennas. New associated equipment would be located within the existing equipment enclosure.

Mountain View Park is located in the OS-P zone. Article 34 of the Zoning Code (Communication Antennas) requires a Conditional Use Permit (CUP) for any wireless communication facility located in a residential or open space zone.

LEGAL REQUIREMENTS: In 1996, the U.S. Congress added a section to the Communications Act of 1934 to promote the expansion of personal wireless communications service, adding section 332(c)(7). This section preserves local zoning authority over the "placement, construction, and modification" of wireless facilities, while imposing certain federal requirements. Section 332(c)(7) specifically requires that state or local government decisions regarding wireless service facilities must not: 1) unreasonably discriminate between one cellular provider and another; or 2) prohibit or have the

effect of prohibiting the provision of personal wireless services; or 3) be founded on “the environmental effects of radio frequency (RF) emissions **to the extent that such facilities comply** with the FCC’s regulations” (emphasis added).

In summary, if the Commission is satisfied that the RF emissions from a proposed project would be within the federal thresholds, then only local zoning conditions may be used to approve or deny an application. A denial of a proposed facility must not run afoul of the federal restrictions set forth as 1) and 2), above.

Staff feels that the issue is as follows:

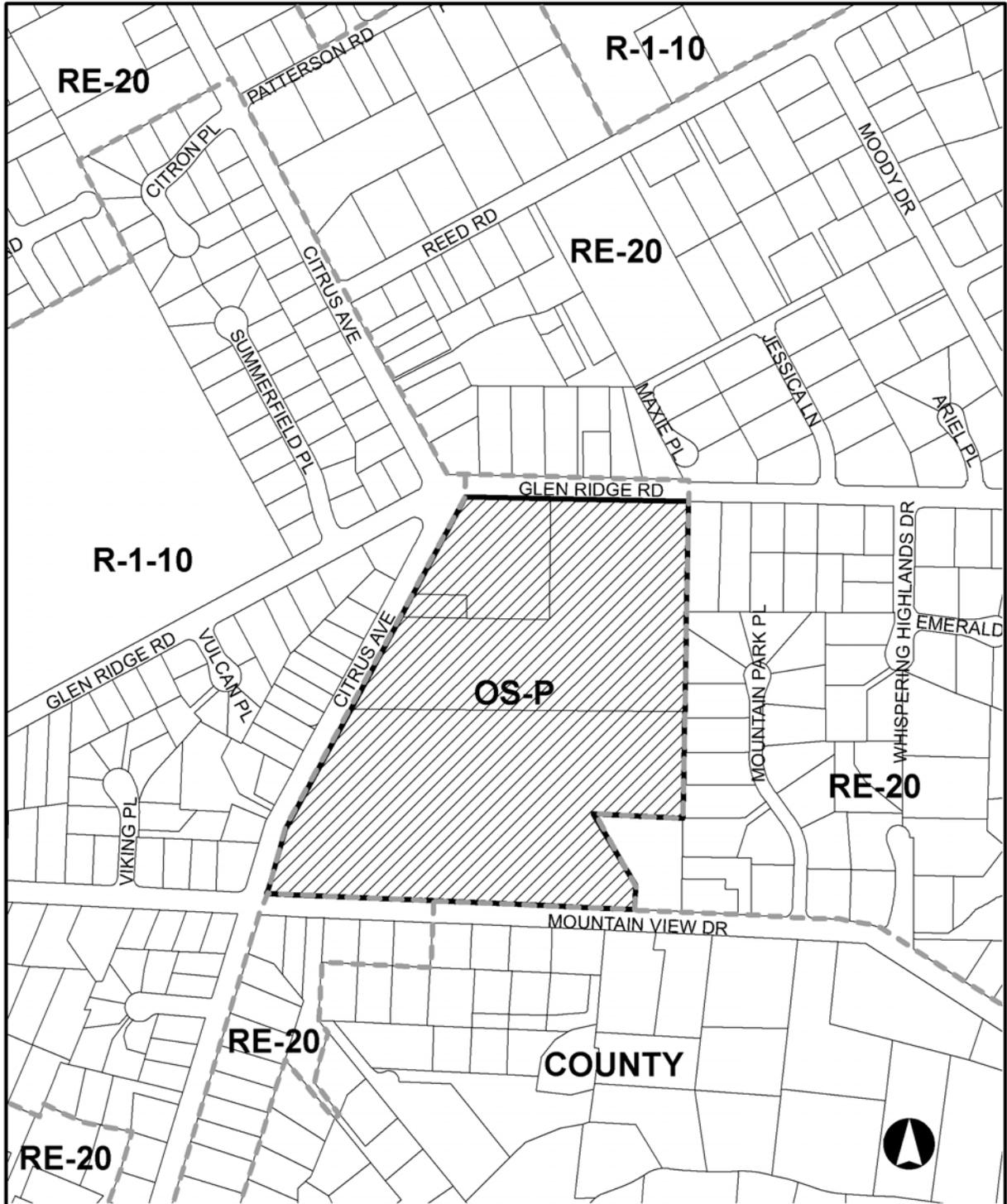
1. Whether the design and location of the proposed wireless communication facility is appropriate for the site and consistent with the Communication Antennas Ordinance.

REASONS FOR STAFF RECOMMENDATION:

1. The proposed wireless facility is consistent with the Communication Antennas Ordinance since it would be co-located onto an existing facility, would meet the height requirement of the Open Space zone, and would be entirely integrated into the site. The facility would not create adverse visual impacts to surrounding properties due to its placement onto an existing structure.
2. Staff feels the proposed facility would not result in a potential health hazard on-site or to nearby residents since the Radio Frequency (RF) study prepared for the proposed project indicates the facility would be within maximum permissible exposure (MPE) limits and Federal Communication Commission (FCC) standards.

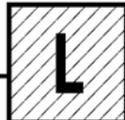
Respectfully submitted,

Kristina Owens
Assistant Planner II

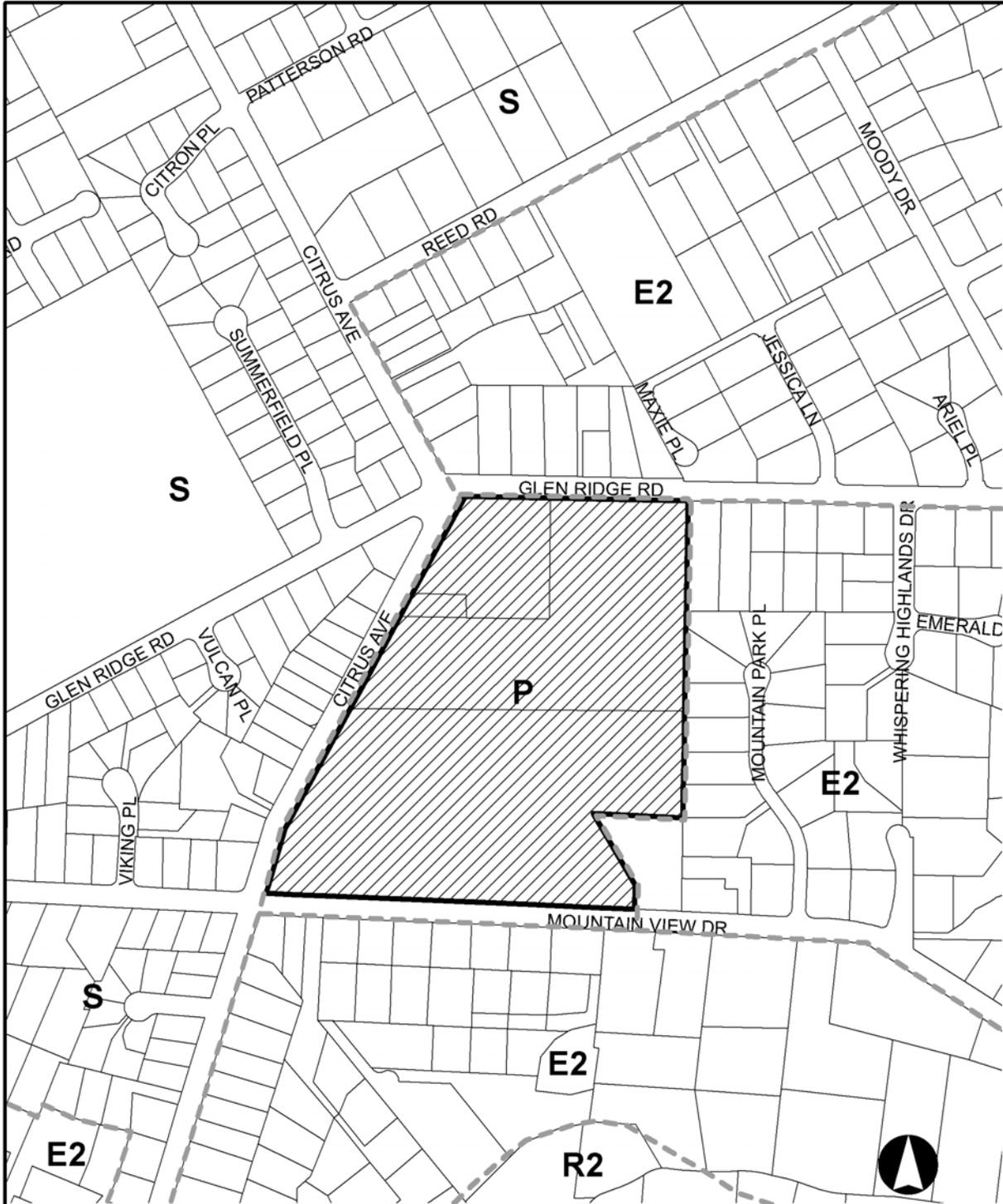


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**PROPOSED PROJECT
PHG 09-0030**



LOCATION/ZONING



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**PROPOSED PROJECT
PHG 09-0030**



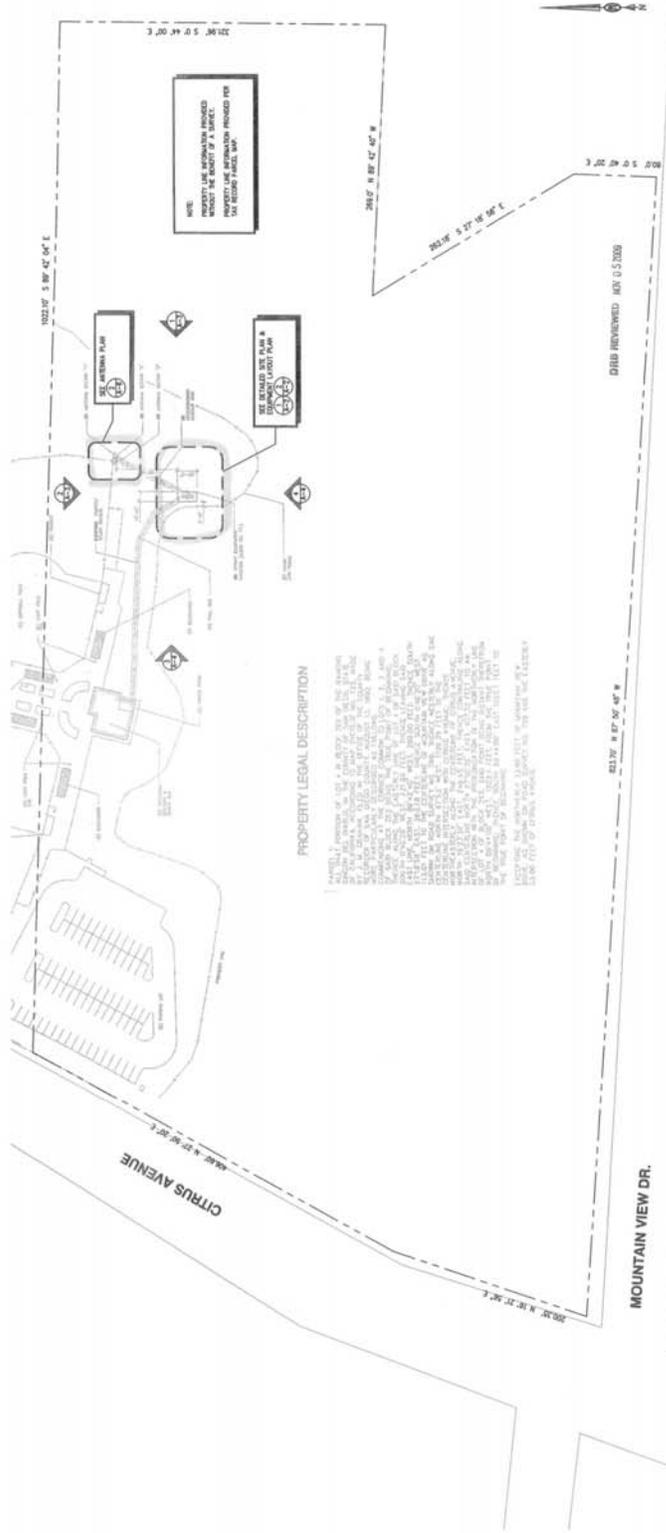


ENLARGED SITE PLAN

**PROPOSED PROJECT
PHG 09-0030**



SITE PLAN



NOTE:
PROPERTY LINE DIMENSIONS PROVIDED
EXCEPT THE BOUNDARY OF A SURFACE
WATER COURSE SHALL BE FINISHED TO
THE NEAREST FEET AND INCH.

SEE REMOVAL OF PLANS &
REVISIONS FOR

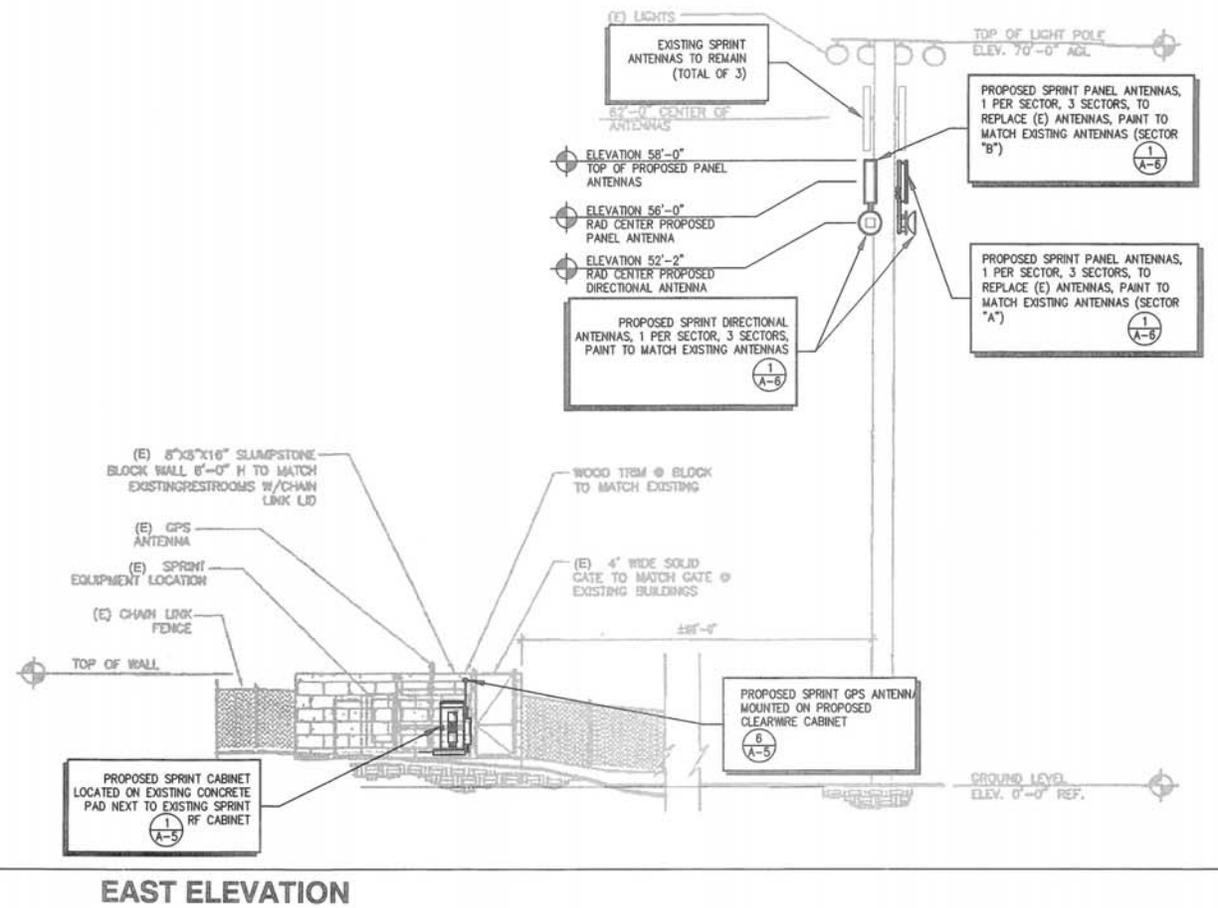
PROPERTY LEGAL DESCRIPTION

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**PROPOSED PROJECT
PHG 09-0030**

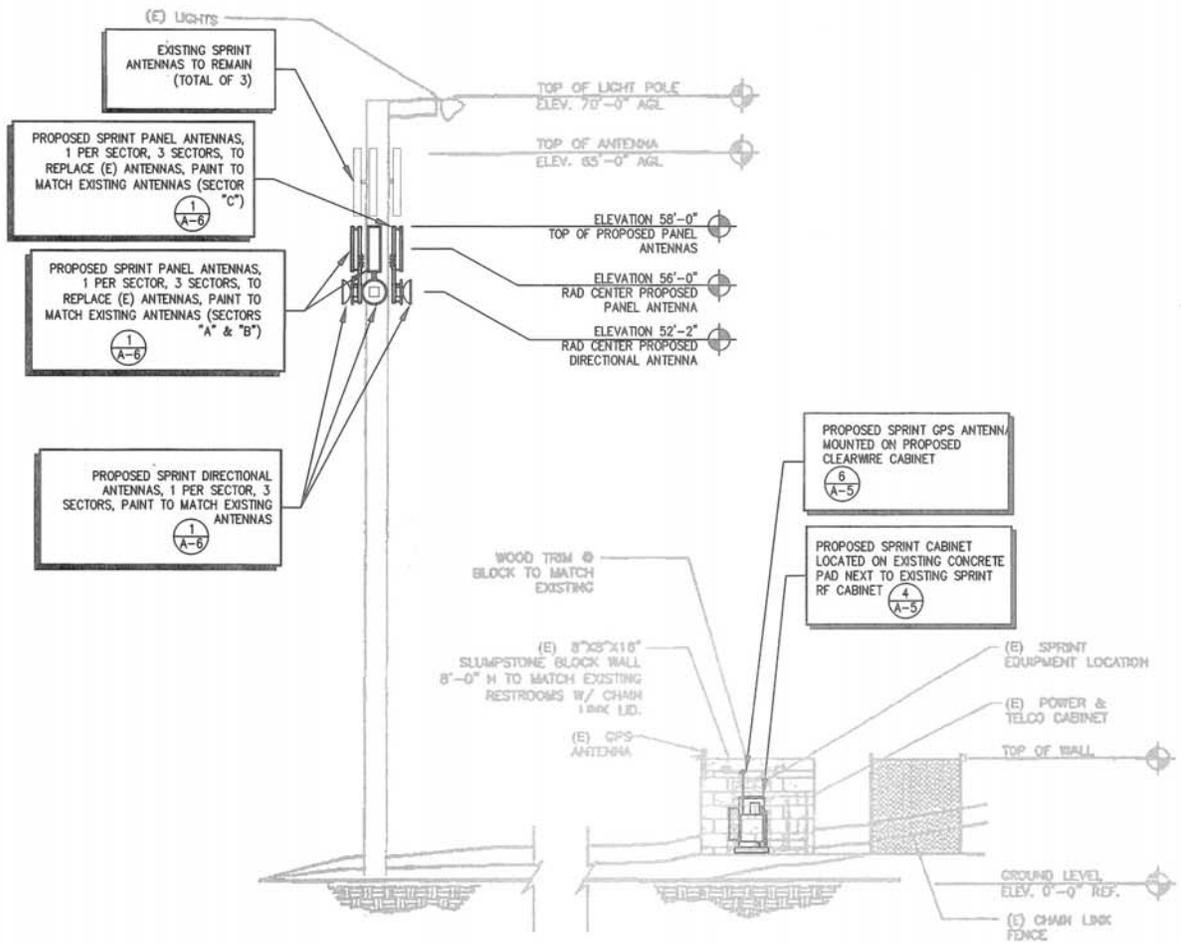


SITE PLAN



**PROPOSED PROJECT
PHG 09-0030**

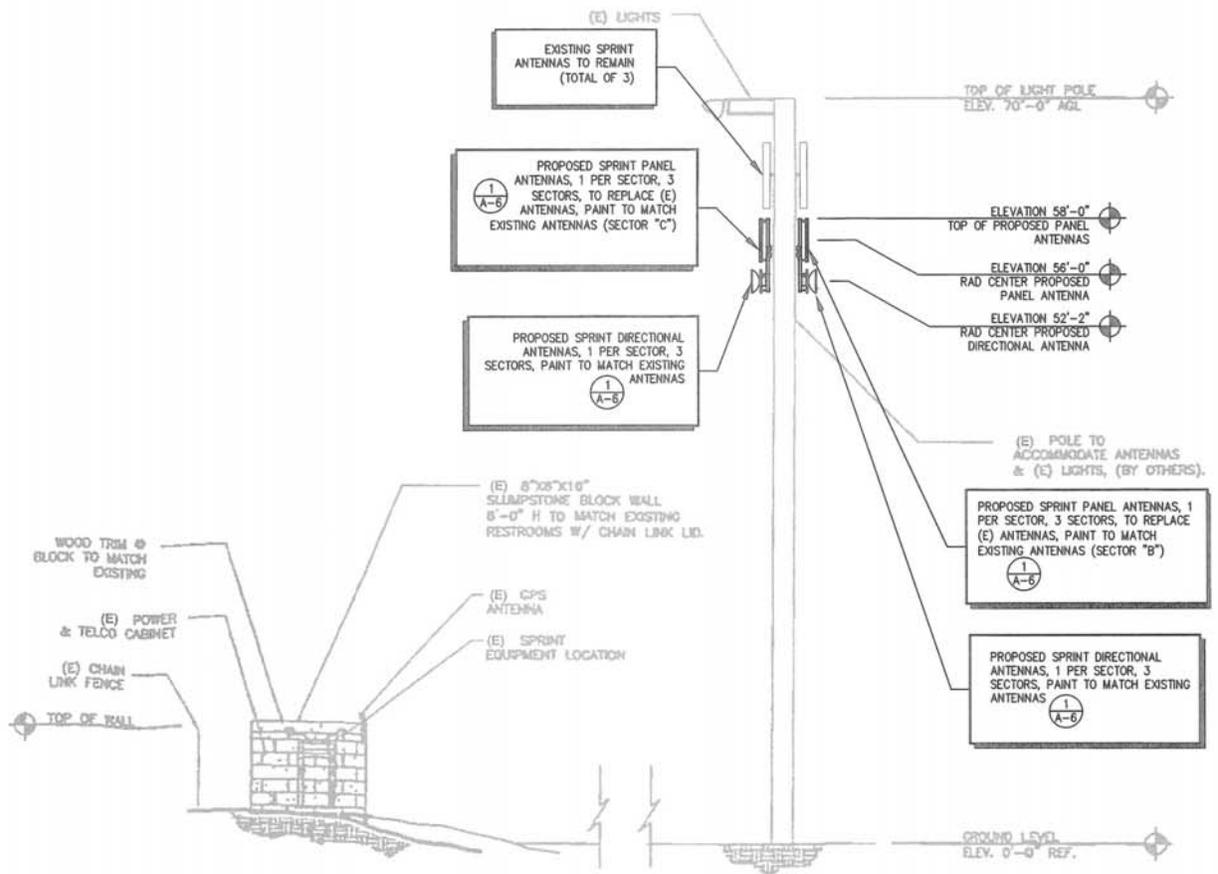




NORTH ELEVATION

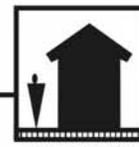
**PROPOSED PROJECT
PHG 09-0030**



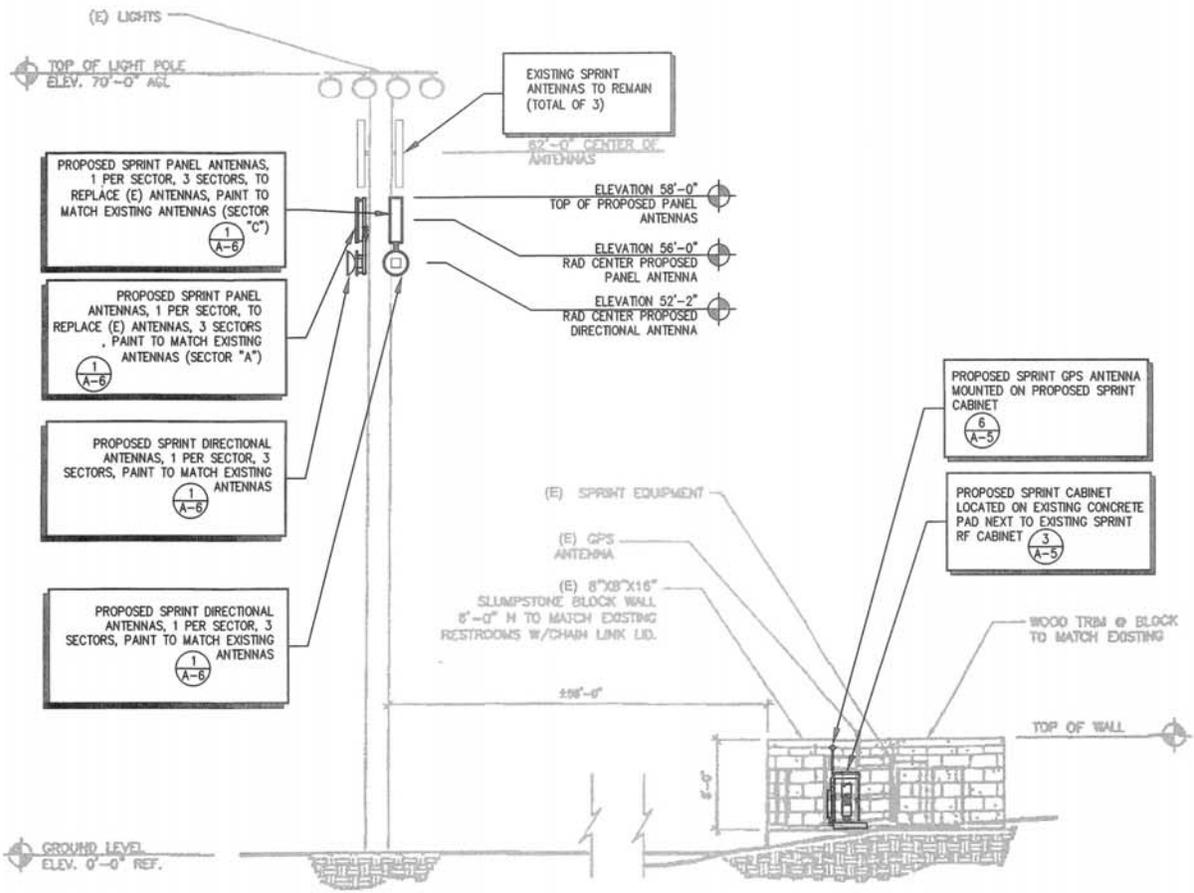


SOUTH ELEVATION

**PROPOSED PROJECT
PHG 09-0030**



ELEVATIONS

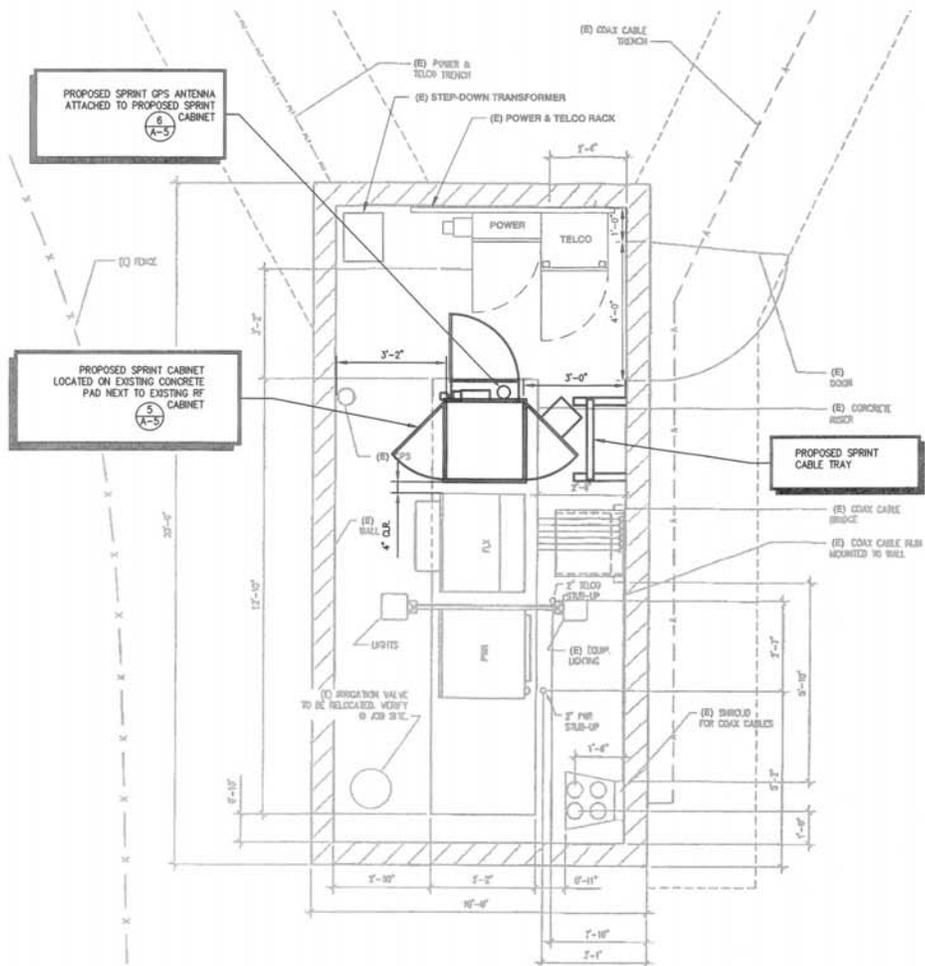


WEST ELEVATION

**PROPOSED PROJECT
PHG 09-0030**



NOTE:
 SCREENED BACK DESIGN ON THIS SHEET PER ORIGINAL PLAN SET FOR EXISTING TELECOMMUNICATION SITE.
 FOR PROPOSED SITE MODIFICATIONS, SEE DARNED DESIGN AND TEXT CALLOUTS.

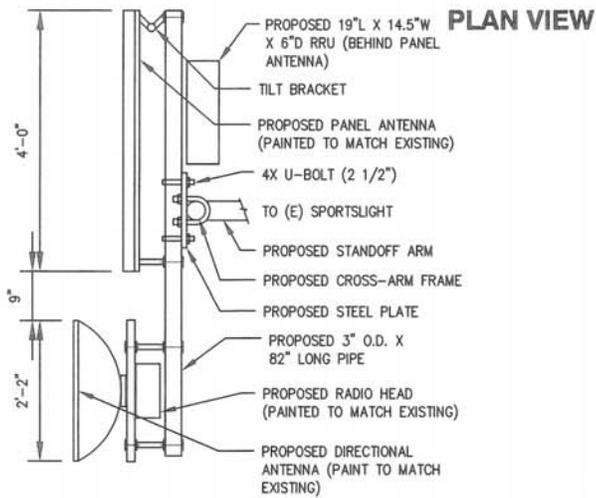
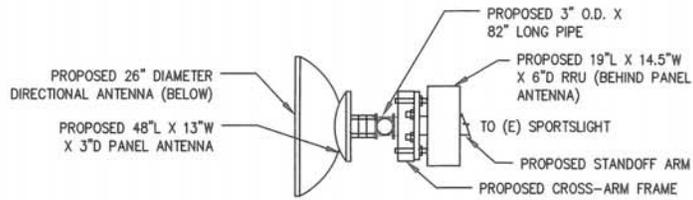


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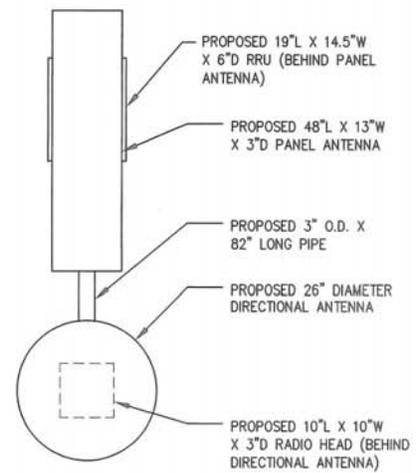
EQUIPMENT LAYOUT PLAN

**PROPOSED PROJECT
 PHG 09-0030**

DETAILS



PROFILE VIEW



SECTION VIEW

ANTENNA DETAILS

**PROPOSED PROJECT
PHG 09-0030**

DETAILS

NOTE:
 SCREENED BACK DESIGN AND TEXT CALLOUTS ON THIS SHEET PER ORIGINAL PLAN SET FOR EXISTING TELECOMMUNICATION SITE.
 FOR PROPOSED SITE MODIFICATIONS, SEE DARKENED DESIGN AND TEXT CALLOUTS.

PROPOSED SPRINT DIRECTIONAL ANTENNAS, 1 PER SECTOR, 3 SECTORS, PAINT TO MATCH EXISTING

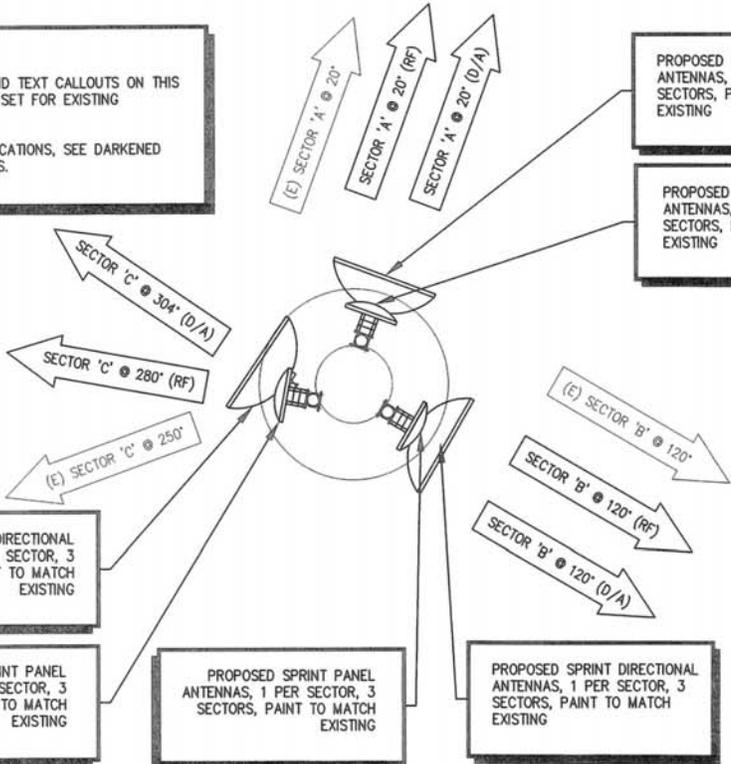
PROPOSED SPRINT PANEL ANTENNAS, 1 PER SECTOR, 3 SECTORS, PAINT TO MATCH EXISTING

PROPOSED SPRINT DIRECTIONAL ANTENNAS, 1 PER SECTOR, 3 SECTORS, PAINT TO MATCH EXISTING

PROPOSED SPRINT PANEL ANTENNAS, 1 PER SECTOR, 3 SECTORS, PAINT TO MATCH EXISTING

PROPOSED SPRINT PANEL ANTENNAS, 1 PER SECTOR, 3 SECTORS, PAINT TO MATCH EXISTING

PROPOSED SPRINT DIRECTIONAL ANTENNAS, 1 PER SECTOR, 3 SECTORS, PAINT TO MATCH EXISTING



ANTENNA LAYOUT DETAIL

**PROPOSED PROJECT
 PHG 09-0030**

DETAILS

ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

NORTH – RE-20 zoning (Residential Estates, 20,000 SF minimum lot size) – Single-family residences on lots of ± 0.5 acre in size are located to the north of the park site, across Glen Ridge Road.

SOUTH – RE-20 and County zoning – Single-family residences on lots approximately 20,000 SF in size are located to the south of the park site, across Mountain View Drive.

EAST - RE-20 zoning – Single-family residences lots approximately 20,000 SF in size are located to the east of the park site.

WEST - R-1-10 (Single-family residential, 10,000 SF minimum lot size) zoning – Single-family residences on lots approximately 10,000 SF in size are located to the west of the park site, across Citrus Avenue.

B. AVAILABILITY OF PUBLIC SERVICES

1. Effect on Police Service – The Police Department has expressed no concern regarding their ability to continue to provide service to the site.
2. Effect on Fire Service – The site is served by Fire Station No. 2, located at 421 North Midway Drive, which is located within the response time mandated by the General Plan. The proposed wireless facility would not contribute any increase in demand for fire services at the site. The Escondido Fire Department has expressed no concern regarding its ability to continue to provide service to the park site and has indicated that the proposed project would not impact levels of service.
3. Traffic – Mountain View Park has frontage on and access from Citrus Avenue and Mountain View Drive, which are both classified as Local Collectors (66' r.o.w.) in the General Plan Circulation Element, and Glenridge Road, which is an unclassified street. No additional ADTs (Average Daily Trips) would be generated as a result of the proposed Conditional Use Permit modification. It is anticipated that the communications facility would be serviced on an as needed basis, which generally would be once a month. The Engineering Division has indicated that the project would not materially degrade the levels of service of the adjacent streets.
4. Utilities – Sewer and water mains with sufficient capacity to serve the site are available and existing within the adjoining street or easement. Sewer and water services are provided by the City of Escondido. The proposed CUP modification would not materially degrade the levels of service of the public sewer or water systems, as neither system would be impacted.
5. Drainage – The proposed Conditional Use Permit modification would not materially degrade the level of service of the existing drainage facilities.

C. ENVIRONMENTAL STATUS

1. A Notice of Exemption was issued on December 28, 2009, in accordance with CEQA Section 15301, Class 1, "Existing Facilities."
2. In staff's opinion, no significant issues remain unresolved through compliance with code requirements and the recommended conditions of approval.
3. The project will have no impact on fish and wildlife resources as no sensitive or protected habitat are located on the site or will be impacted by the proposed facility.

D. CONFORMANCE WITH CITY POLICY/ANALYSIS

General Plan

The General Plan land use designation on the site is Public (P). The designation identifies existing large publicly-owned lands, water treatment facilities, and other governmental structures other than schools, where such uses occupy more than two acres. The existing public park is consistent with the Public designation. The proposed Conditional Use Permit (CUP) modification would be consistent with the General Plan designation, since a wireless facility is permitted in a residential or open space designation when conditioned to be in conformance with the Communication Antennas Ordinance and underlying zoning.

Whether the Design and Location of the Proposed Wireless Communication Facility is Appropriate for the Site and Consistent with the Communication Antennas Ordinance

Mountain View Park is approximately 25 acres in size. There are existing baseball/softball fields in the center of the park. Sprint/Nextel has an existing wireless facility on a 70-foot-high light pole on one of the baseball fields. Clearwire is proposing to co-locate a new wireless facility onto the pole. Three of Sprint's six existing antennas would be removed and Clearwire would add six new antennas. The existing panel antennas are flush mounted to the light pole at approximately 65 and 58 feet in height. The lower three antennas would be removed and Clearwire's panel antennas would be mounted flush with the pole at a height of 58 feet. Beneath each new panel antenna would be a round, 24-inch, directional antenna, mounted in an "exclamation point" design. All new associated equipment, including one new cabinet, would be located within an existing, six-foot-high, block equipment enclosure.

The Communication Antennas Ordinance encourages the use of commercial and industrial properties whenever possible, and discourages communication facilities within residential zones. The City has approved several wireless communication facilities within residential zones, typically on properties used for non-residential purposes (i.e., churches, school, parks, water tanks, etc.). The subject site is located in an Open Space zone, which is intended generally for parks. While the site is surrounded by residential uses, the nearest residence to the facility is more than 200 feet away. The site is similar to a non-residential site with a church or high school, with no residential uses located on the site.

The Ordinance requires that facilities be in conformance with the height limit of the zone, unless otherwise permitted in Section 33-1075. There is no maximum height for structures in the Open Space zone. The Open Space permits private and public open space, recreation uses, and public facilities. The existing light pole is permitted in conjunction with the baseball fields.

The proposed wireless facility would be integrated into the site and not highly visible to surrounding properties. The antennas would be mounted flush to an existing light pole with other antennas, with views not substantially different than the existing condition. The three new panel antennas would be installed in place of three existing panel antennas. The round antennas would be new. All antennas would be mounted flush on the pole, rather than on an array or arms extending from the pole. The equipment would be entirely located within the existing equipment enclosure and would not be visible from the site or surroundings. On November 5, 2009, the Design Review Board reviewed the proposed plans and recommended approval by a 6-0 vote. They expressed no concerns with the project. The location of the proposed facility does not pose negative visual impacts, since the views of the site and the light pole would not be substantially different as seen from within the park and from surrounding properties, and the design of the facility is in scale and context with the surroundings. Staff feels the proposed wireless facility would be in conformance with the Communication Antennas Ordinance.

Conformance with FCC Emission Requirements

Operation of wireless communication facilities generates radio frequency electromagnetic emissions (RF radiation). An RF study was prepared for the project by AIM Wireless Solutions on September 28, 2009, to determine whether the proposed communication facility would comply with the FCC Rules and Regulations for RF emissions for "Occupational" and "General Public" classifications. The maximum RF level at any point was reviewed cumulatively with the existing on-site facility. The analysis indicates that the anticipated cumulative level on the ground is less than 36% of the FCC's General Population Maximum Permissible Exposure (MPE) limit. The study concluded that the facility would be in compliance with the current FCC requirements and that no mitigation would be required or recommended. A copy of the study has been attached to this report.

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. PHYSICAL CHARACTERISTICS

The 25-acre site is level and is currently developed with a City-owned park, including tennis courts, parking areas, open play area, and softball/baseball diamonds. The park has frontage on and access from Citrus Avenue, Glen Ridge Road and Mountain View Drive. The subject ball field is located near the center of the park.

B. SUPPLEMENTAL DETAILS OF REQUEST

1. Property Size: Approximately 25 acres
2. Antennas: 3 remaining Sprint antennas
6 new antennas, including 3 panel antennas and 3 round directional antennas
Panels: 48" long, 13" wide, 3" deep
Directional: 26" diameter
All painted to match the existing pole and antennas
3. Structure: Existing 70-foot-high baseball field light pole
4. Equipment: One new cabinet proposed, located entirely within existing block enclosure
5. Hours of Operation: 24 hours, unmanned
6. Landscaping: None of the existing/approved landscaping is proposed to be removed or modified. No additional landscaping is proposed.

**FINDINGS OF FACT
EXHIBIT "A"
PHG 09-0030**

1. Granting the proposed Conditional Use Permit modification would be based upon sound principles of land use and in response to services required by the community since the facility would further enhance wireless internet communication services in the city without posing a health threat or having a negative visual impact on the surrounding area. The proposed facility would be consistent with the Communication Antennas Ordinance, since it would meet the height limitations of the Open Space zone, it would be integrated into the site, and it would be designed so that the antennas and equipment are screened from view from adjacent properties and streets. Additionally, the facility would meet FCC requirements for RF emissions.
2. The proposed wireless facility would not cause a deterioration of bordering land uses or create special problems in the area in which it is located, since the antennas and equipment would not create an adverse visual impact on surrounding properties and streets. The existing equipment enclosure would provide screening of the proposed equipment, and the existing light pole and surrounding landscaping would provide screening and softening of the antennas, creating minimal visual impacts. In addition, the RF emissions generated by the facility would be below the ANSI/IEEE and FCC standards, as demonstrated by the RF study completed for the applicant.
3. The proposed Conditional Use Permit modification has been considered in relationship to its effect on the neighborhood and it has been determined to be compatible with the surrounding properties, since the wireless facility would be in context with and integrated into the site and consistent with the Communication Antennas Ordinance. The facility would be co-located onto existing structures. In addition, traffic generated by the project would be limited to approximately one routine maintenance trip per month, there is no sensitive habitat on the site that would be impacted, and the antennas would meet FCC requirements for RF emissions.

**CONDITIONS OF APPROVAL
EXHIBIT "B"
PHG 09-0030**

Planning Division Conditions

1. The developer shall be required to pay all development fees of the City then in effect at the time and in such amounts as may prevail when building permits are issued, including any applicable City Wide Facilities fees.
2. All construction and grading shall comply with all applicable requirements of the Escondido Zoning Code, the Planning Division, Engineering Division, Building Division, and Fire Department.
3. The legal description attached to the application has been provided by the applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.
4. All exterior lighting, including on equipment enclosures, shall conform to the requirements of Article 55, Outdoor Lighting (Ordinance No. 86-75).
5. All project-generated noise shall comply with the City's Noise Ordinance (Ord. 90-08) to the satisfaction of the Planning Division.
6. An inspection by the Planning Division will be required prior to operation of the project. Everything should be installed prior to calling for an inspection, although preliminary inspections may be requested. Contact the project planner at (760) 839-4671 to arrange a final inspection.
7. This CUP shall become null and void unless utilized within twelve months of the effective date of this approval.
8. The uses, colors, materials and design of the project shall conform to the exhibits and references in the staff report, the Details of Request, and the Conditions of Approval, to the satisfaction of the Planning Division. All details of the proposed facility shall be clearly shown on the building plans. All antennas and associated mounting hardware shall be painted to match the existing pole.
9. All communication facilities on the site shall be removed upon non-use of the facilities, to the satisfaction of the Planning Division.
10. No additional antennas or expansion of this facility shall be permitted without a modification of the Conditional Use Permit and a public hearing before the Planning Commission. Minor changes within the approved size and design parameters may be permitted by the Director of Community Development after review by the Design Review Board.
11. Clearwire/Sprint, or any subsequent operator/leaseholder, hereby agrees to investigate complaints related to possible interference with electronic equipment in the surrounding area, to determine the cause of the interference. If the Clearwire/Sprint facility is determined to be the cause of the electronic interference, Clearwire/Sprint shall solve the problem in a timely manner to the satisfaction of the complainant and the Director of Community Development. Any interference with Fire Department or public safety communications shall be corrected immediately by Clearwire/Sprint to the satisfaction of the City of Escondido.
12. Clearwire/Sprint shall coordinate with the City of Escondido to select a qualified, independent, third party to conduct actual power density measurements of the facility within ninety (90) days of installation and full operation. The results of the study shall be submitted to the Director of Community Development so that the theoretical power density study can be compared to the actual output and ensure compliance with FCC requirements.
13. Clearwire/Sprint, or a future leaseholder, shall be responsible for all ongoing maintenance of the facility, including the antennas and associated equipment, to ensure that the condition of the facility does not appear weathered.
14. Clearwire/Sprint, or any subsequent operator/lease holder of the facilities shall not oppose co-location of the facility by other wireless carriers (subject to City of Escondido approval) if it can be proven that the additional carrier would not adversely affect the operation and function of Clearwire/Sprint antennas.

15. Pursuant to Zoning Code Section 33-1207, this item may be referred back to the Planning Commission upon recommendation of the Director of Community Development for review and possible revocation or modification of the Conditional Use Permit upon receipt of nuisance complaints regarding the facility or non-compliance with the Conditions of Approval. Abatement shall follow all necessary procedures set forth in Section 33-1207.
16. This Conditional Use Permit is only for the installation of a Clearwire/Sprint facility on the site. The number of antennas (6) allowed shall be used for Clearwire/Sprint and not sub-leased to any other carriers unless approved by the City. No other carriers shall be allowed to be placed on the facility, unless a new Conditional Use Permit is approved by the City. For the purposes of this condition of approval, Clearwire/Sprint refers to Clearwire, Sprint or any principal, affiliate, subsidiary of its principal, or any entity which acquires all or substantially all of Clearwire and/or Sprint assets in the market defined by the Federal Communications Commission in which the subject property is located, by reason of merger, acquisition or other business reorganization.
17. All equipment shall be entirely enclosed within, and beneath the height of, the existing equipment enclosure, to the satisfaction of the Planning Division.
18. A generator has not been proposed or approved. Any permanent, temporary, or standby emergency generators shall be in conformance with the City's Zoning Code requirements for electric generating facilities (Section 33-1122). Any generator is to be used for emergencies only. Any testing or maintenance of the generator is to be periodic only and may occur only between the hours of 7:00 a.m. and 5:00 p.m.
19. All new utilities and cable runs shall be located underground, to the satisfaction of the Planning and Engineering Divisions.
20. All proposed signage associated with the project shall comply with the City of Escondido Sign Ordinance (Ord 92-47) and the exhibits included in the staff report, to the satisfaction of the Planning Division. Appropriate signs providing notice, caution or warning, and other necessary markings shall be placed at the main access point(s) and other locations, as may be required, in order to alert the general public, maintenance or other workers approaching the antennas to the presence of RF transmissions and to take precautions to avoid exposures in excess of FCC limits. The requirement for the appropriate signage/notice shall be indicated on the building plans.
21. Prior to utilization of the CUP and commencing construction, a lease (or revised lease) with the City for the use of the City's property shall be executed as needed, to the satisfaction of the City Attorney and the City's Real Property Agent.
22. The City of Escondido hereby notifies the applicant that the County Clerk's office requires a documentary handling fee of \$50.00 in order to file a Notice of Exemption for the project (environmental determination for the project). In order to file the Notice of Exemption with the County Clerk, in conformance with the California Environmental Quality Act (CEQA) Section 15062, the applicant should remit to the City of Escondido Planning Division, within two working days of the final approval of the project (the final approval being the hearing date of the Planning Commission or City Council, if applicable), a certified check payable to the "County Clerk" in the amount of \$50.00. The filing of a Notice of Exemption and the posting with the County Clerk starts a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. Failure to submit the required fee within the specific time noted above will result in the Notice of Exemption not being filed with the County Clerk, and a 180 day statute of limitations will apply.

Landscape Conditions

1. All existing and previously approved vegetation shall be maintained in a flourishing manner and kept free of all foreign matter, weeds, and plant materials not approved as part of the landscape plan. All existing irrigation shall be maintained in fully operational condition.

Building Division Conditions

1. All building plans shall be in conformance with the California Building Code, to the satisfaction of the Building Official.