



## **AGENDA MEMO**

**CITY COUNCIL MEETING OF: OCTOBER 7, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ZON-34611 - APPLICANT: FLO TV, INC - OWNER: UNITED STATES OF AMERICA**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 2, 2009 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

### **\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) recommends DENIAL. Staff recommends APPROVAL.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

The subject site is an unimproved lot containing an existing 321-foot tall, non-conforming Radio, TV or Microwave Communication Tower, located on the north side of Del Rey Avenue, approximately 900 feet west of Monte Cristo Way. The applicant is proposing to expand the use by adding an antenna to the tower and related support equipment on the ground. As the expansion of this non-conforming use of the site is not permitted, the applicant is requesting this Rezoning from the R-E (Residence Estates) to the C-V (Civic) zoning district. The result of this change, combined with the approval of an associated request for a General Plan Amendment (GPA-34610), will be that the existing use of the site will become a conforming use, and could then be expanded through the approval of a Site Development Plan Review (SDR-34612). Denial of this request will require that the associated requests also be denied, and the use will remain as a non-conforming use in its current configuration. Staff is recommending approval of this request as the use of the site for the communications tower has been in existence since 1975, and the requested Rezoning is compatible with the adjacent surrounding zoning districts.

**BACKGROUND INFORMATION**

| <i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i> |                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 02/05/86                                                           | The City Council approved an Annexation (A-0009-85) of property located on the south side of Charleston Boulevard between Fort Apache Road and Torrey Pines Drive for 1,470 acres of various zoning classifications. The Planning Commission and staff recommended approval of the request. The effective date of the Annexation was 03/28/86.                                         |
| 11/23/98                                                           | The City Council approved a General Plan Amendment (GPA-0027-98) to amend a portion of the Southwest Sector of the General Plan on properties bounded by Holmby Channel, Via Olivero Avenue, Rainbow Boulevard, and Durango Drive, from R (Rural Density Residential) to DR (Desert Rural Density Residential). The Planning Commission and staff recommended approval of the request. |
| 11/08/07                                                           | A Code Enforcement citation (#59678) was issued at the northwest corner of Del Rey Avenue and Tioga Way for trash and debris. Code Enforcement closed the case on 11/15/07.                                                                                                                                                                                                            |
| 10/08/08                                                           | A Code Enforcement citation (#70520) was issued at the northwest corner of Del Rey Avenue and Tioga Way for trash and debris. Code Enforcement closed the case on 10/14/08.                                                                                                                                                                                                            |
| 07/23/09                                                           | The Planning Commission recommended denial of companion items GPA-34610 and SDR-34612 concurrently with this application.<br><br>The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #7/bts).                                                                                                                                                                        |

| <b><i>Related Building Permits/Business Licenses</i></b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09/30/74                                                 | A Grant lease (#N-7884) was approved by the Bureau of Land Management for a communications site. The Grant lease will expire on September 29, 2024.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 09/31/74                                                 | A Building Permit (#BP-19,658) was issued by the United States of America Federal Communications Commission for a 321-foot antenna. The permit was finalized on 07/31/75.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b><i>Pre-Application Meeting</i></b>                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 05/08/09                                                 | <p>The following items were discussed at the pre-application meeting:</p> <ul style="list-style-type: none"> <li>• The existing 321-foot communication tower and associated equipment was discussed.</li> <li>• The proposed co-location of a 25-foot antenna, new satellite dishes and related equipment was discussed.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b><i>Neighborhood Meeting</i></b>                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 06/10/09                                                 | <p>A neighborhood meeting was held at 6:30 pm at the Johnson Community School located at 340 Vila Monterey Drive, Las Vegas, Nevada 89145. There were 15 members of the public, four representations of the applicant and one member of the Planning and Development Department present.</p> <p>The following is a list of questions, concerns and comments from the attendants of the meeting:</p> <ul style="list-style-type: none"> <li>• The site is not being properly maintained as it has graffiti and trash on it.</li> <li>• The site has illegal activity occurring on it.</li> <li>• No landscaping is being proposed as a part of the application.</li> <li>• No buffer wall or fence is being proposed as a part of the application.</li> <li>• A request to have the notice area increased for the entire area from Cimarron to Rainbow to Sahara to Charleston.</li> </ul> <p>There was a consensus of opposition towards the new tower and the change in land use and zoning.</p> |
| <b><i>Field Check</i></b>                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 06/04/09                                                 | <p>A field check was completed on the indicated date. Planning and Development found the following items;</p> <ul style="list-style-type: none"> <li>• Staff identified the existing 321-foot communication tower and the related equipment enclosed by chain-link and barbed wire fencing.</li> <li>• Staff verified that there is graffiti and debris on the subject site. A condition of approval has been added to the Site Development Plan Review (SDR-34612) to correct this issue.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b><i>Details of Application Request</i></b>             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b><i>Site Area</i></b>                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Gross Acres                                              | 10.89 acres                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| Surrounding Property | Existing Land Use        | Planned Land Use                                                    | Existing Zoning                                                                        |
|----------------------|--------------------------|---------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Subject Property     | Communication Tower      | DR (Desert Rural Residential)<br>[Proposed: PF (Public Facilities)] | R-E (Residence Estates) [Proposed: C-V (Civic)]                                        |
| North                | Apartments               | M (Medium Density Residential)                                      | R-3 (Medium Density Residential)                                                       |
| South                | Single-Family Dwellings  | DR (Desert Rural Density Residential)                               | R-PD2 (Residential Planned Development – 2 Units per Acre) and R-E (Residence Estates) |
| East                 | Single-Family Dwellings  | DR (Desert Rural Density Residential)                               | R-E (Residence Estates)                                                                |
| West                 | Social Security Building | O (Office)                                                          | O (Office)                                                                             |

| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---------------------------------------------------|------------|-----------|-------------------|
| <b>Special Area Plan</b>                          |            | X         | N/A               |
| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
| <b>Special Purpose and Overlay Districts</b>      |            | X         | N/A               |
| <b>Trails</b>                                     |            | X         | N/A               |
| <b>Rural Preservation Overlay District</b>        | X          |           | Y                 |
| <b>Development Impact Notification Assessment</b> |            | X         | N/A               |
| <b>Project of Regional Significance</b>           |            | X         | N/A               |

## DEVELOPMENT STANDARDS

*Pursuant to Title 19.06.020, the following standards are proposed:*

| <i>Standard</i>                                                                                                                                                                                          | <i>Provided</i>                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| Min. Lot Size                                                                                                                                                                                            | A portion of a 10.89 acre site               |
| Min. Setbacks <ul style="list-style-type: none"> <li>• Front (Del Rey Avenue)</li> <li>• Side (East property line)</li> <li>• Side (West property line)</li> <li>• Rear (North property line)</li> </ul> | 548 Feet<br>554 Feet<br>106 Feet<br>114 Feet |
| Max. Building Height (Structure)                                                                                                                                                                         | 321 Feet                                     |
| Mech. Equipment                                                                                                                                                                                          | Screened                                     |

## ANALYSIS

The subject site has a General Plan designation of DR (Desert Rural Density Residential). The applicant is proposing a General Plan designation of PF (Public Facilities). The PF (Public Facilities) land use designation will allow conformance with the proposed C-V (Civic) zoning designation.

This request would Rezone the subject site from R-E (Residence Estates) to C-V (Civic), which is intended for a 321-foot Radio, TV or Microwave Communication Tower. The C-V (Civic) district is consistent with the PF (Public Facilities) category of the General Plan

As the proposed C-V (Civic) zoning district is consistent with the proposed PF (Public Facilities) General Plan designation, and the proposal is compatible with the surrounding land uses, staff is recommending approval of this request.

## FINDINGS

In order to approve a Rezoning application, pursuant to Title 19.18.040, the Planning Commission or City Council must affirm the following:

### **1. “The proposal conforms to the General Plan.”**

The proposed C-V (Civic) zoning district is consistent with the proposed PF (Public Facilities) land use category and conforms to the General Plan.

### **2. “The uses which would be allowed on the subject property by approving the rezoning will be compatible with the surrounding land uses and zoning districts.”**

The uses allowed by the C-V (Civic) zoning district are compatible with the surrounding land uses and zoning districts.

### **3. “Growth and development factors in the community indicate the need for or appropriateness of the rezoning.”**

The existing Radio, TV or Microwave Communication Tower is non-conforming in the existing R-E (Residence Estates) zoning district. Rezoning the subject site will bring the property into conformance with Title 19 and establish the existing use and its expansion.

### **4. “Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed zoning district.”**

The site is accessed from Del Rey Avenue, a 60-foot Local Street, as designated by the Master Plan of Streets and Highways. This street is adequate to meet the requirement of the proposed zoning district. The subject use will produce a negligible increase in traffic volumes.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 14

**ASSEMBLY DISTRICT** 2

**SENATE DISTRICT** 8

**NOTICES MAILED** 161 by City Clerk

**APPROVALS** 0

**PROTESTS** 11