



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: May 13, 2010 **REPORT NO. PC-10-039**

ATTENTION: Planning Commission, Agenda of May 20, 2010.

SUBJECT: FLOTV – CORAL TREE PLAZA
PROJECT NO. 195665, PROCESS 4

**OWNER/
APPLICANT:** Coral Tree Plaza Owners Association (See Attachment 11)
FloTV

SUMMARY

Issue(s): Should the Planning Commission approve a Wireless Communication Facility (WCF) at 3634 7th Avenue within the Uptown Community Planning area?

Staff Recommendation:

1. **Approve** Conditional Use Permit 692670 and;
2. **Approve** Site Development Permit 742243.

Community Planning Group Recommendation: On February 2, 2010, the Uptown Planners voted 16-0-1 to recommend approval of this project. (Attachment 10).

Environmental Review: This project is exempt from environmental review pursuant to Article 19, Section 15303, New Construction or Conversion of Small Structures, of the California Environmental Quality Act (CEQA). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on December 3, 2009 and the opportunity to appeal that determination ended December 17, 2009 (Attachment 15).

Fiscal Impact Statement: None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: None with this action.

BACKGROUND

The project is located at 3634 7th Avenue, on the roof of an existing 181 foot tall condominium building (Attachment 3). This previously conforming structure is surrounded by single family residences to the north and south and multi-family residences to the east and west (Attachment 1). The project site is in the MCCPD-MR800B zone (Attachment 4) within the Uptown Community planning area. The site location is designated for residential use within the Community Land Use Plan (Attachment 2). The project location is also located within the FAA Part 77 and a Determination of No Hazard of Air Navigation was issued on February 1, 2010 (Attachment 16). The proposed FloTV Wireless Communication Facility (WCF) will be located inside an expanded rooftop penthouse behind Fiberglass Resistant Panels (FRP). FloTV is proposing this WCF to improve coverage issues in addition to implementing new technology within the surrounding area.

The Wireless Communication Facilities regulations identify this proposal as a Process 4, Conditional Use Permit due to the fact that it is located on a residential use within a residential zone. The project complies with the Wireless Communication Facilities Regulations which require a facility to use all reasonable means to conceal and minimize the visual impacts through architectural integration, landscape and siting solutions. The proposed antennas and equipment will be completely concealed inside the penthouse and will not be visible to the public.

DISCUSSION

Project Description:

FloTV is proposing to install a WCF that consists of a total of one panel antenna behind FRP screening on the rooftop inside an expanded penthouse. The rooftop penthouse would be increased by a total of 225-square feet to accommodate the equipment and stealth antenna design. The FRP screen wall shall be painted to match the existing penthouse and will completely conceal the entire WCF.

Due primarily to the topography of the surrounding area, the current location was considered ideal for several reasons. The WCF will be located inside an expanded rooftop penthouse, making it minimally visible. The 225 square foot addition would not result in any additional height increase. The current design allows FloTV to fully stealth both the equipment and the antennas from the public perspectives as opposed to other more intrusive designs such as façade mounting the antennas on the side of the building.

Wireless Communication Facility (WCF) Regulations – The site is located on a residential use and is permitted with a Conditional Use Permit (CUP) pursuant to Land Development Section 141.0420(f)(2). This project is also requesting a height deviation to exceed the 60-ft height requirement within the MCCPD-MR800B zone, thus requiring a Mid City Communities Development Permit which is processed as a Site Development Permit (SDP). The CUP and the SDP will be consolidated as a Process 4, Planning Commission decision with appeal rights to the

City Council.

As designed, the proposed FloTV WCF complies with LDC Section 141.0420(g)(2). This section states, "The applicant shall use all reasonable means to conceal or minimize the visual impacts of the wireless communication facilities through integration. Integration with existing structures among other existing uses shall be accomplished through the use of architecture, landscaping, and siting solutions." The antennas and equipment are completely concealed inside the expanded rooftop penthouse. Therefore, this proposed WCF complies with the design requirement as indicated in this section of the code.

The equipment associated with this project complies with Municipal Code Section 141.0420(g)(3), "The wireless communication facility's equipment shall be located within an existing building envelope, whenever possible. If a new equipment enclosure is necessary, it shall not exceed 250 square feet." The proposed FloTV equipment is inside the expanded rooftop penthouse which is 225 square feet. Therefore, this proposed WCF and the associated equipment complies with the design requirement as indicated in this section of code.

Council Policy 600-43 – The guidelines establish a hierarchy from the most preferred locations (Preference 1) to the least preferred locations (Preference 4) for WCFs. The project is proposed within a preference 4 location according to Council Policy 600-43, which categories WCF according to the land use in which they are located. In this case, the property is zoned MCCPD-MR800B and requires a Conditional Use Permit. Additionally, a Site Development Permit is required as a result of the requested height deviation. Nevertheless, the applicant must demonstrate that sites within Preference 1, 2 and 3 were explored in good faith and found unacceptable. FloTV has provided staff with an analysis for each site that was considered by their RF engineers with an explanation as to why the site was not chosen (Attachment 14).

General Plan - The General Plan, Section UD-A.15, states that WCFs should be concealed in existing structures when possible, or otherwise use camouflage and screening techniques to hide or blend the facilities into the surrounding area. The design of the facilities is to be aesthetically pleasing and respectful of the neighborhood context. The proposed WCF is concealed inside an expanded rooftop penthouse behind FRP panels painted to match. This is considered a stealth facility resulting in no future expiration date. The project as proposed complies with the General Plan's recommendation to blend the WCF into the surrounding area with minimal visual impacts (Attachment 6).

Community Plan Analysis - The project location has been designated for a residential use in the Uptown Community Land Use Plan (Attachment 2). The Uptown Community Plan does not contain specific policies on wireless communication facility development.

Project-Related Issues:

The project proposes to install a WCF inside an expanded penthouse that exceeds the current height limit. The MCCPD MR800B zone requires all structure(s) to be no greater than 60-feet. The existing building is a previously conforming structure however; all development being proposed shall be reviewed in accordance to the current Municipal Code regulations. As a result,

proposed shall be reviewed in accordance to the current Municipal Code regulations. As a result, the project requires a Mid City Communities Development Permit which is processed as a Site Development Permit. While the penthouse is above the allowable height, the structure will be designed so that it is consistent with the existing penthouse without any additional height increase to the overall height of the building.

The Wireless Communication Facility regulations require project applicants to integrate their wireless projects into the architecture of the existing buildings or environment. Wireless communication technology is dependent on clear lines of site and the height where the antennas are proposed is needed to provide coverage to the surrounding area. Staff supports the proposed design as it has been determined that it will not cause any visual impacts to the surrounding community.

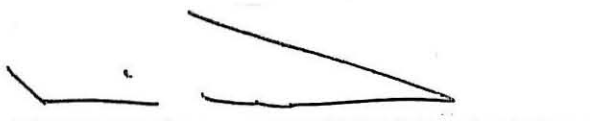
Conclusion:

Staff has reviewed the proposed project and has determined the project is consistent with the purpose and intent of the applicable development regulations of the San Diego Municipal Code, which includes the development regulations of the MCCPD-MR800B zone and the Wireless Communication Antennas Regulations. The required findings have been made (Attachment 8) to support staff's recommendation. Therefore, staff recommends approval of Conditional Use Permit 692670 and Site Development Permit 742243 (Attachment 9).

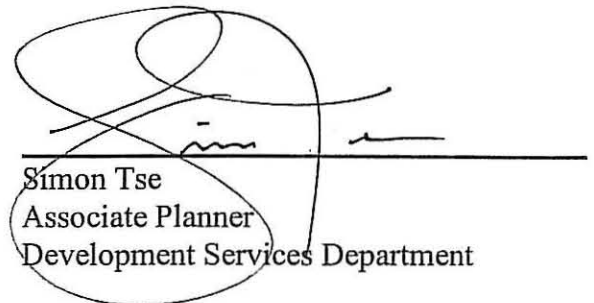
ALTERNATIVES

1. **APPROVE** Conditional Use Permit 692670 and Site Development Permit 742243, **with modifications.**
2. **DENY** Conditional Use Permit 692670 and Site Development Permit 742243, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department

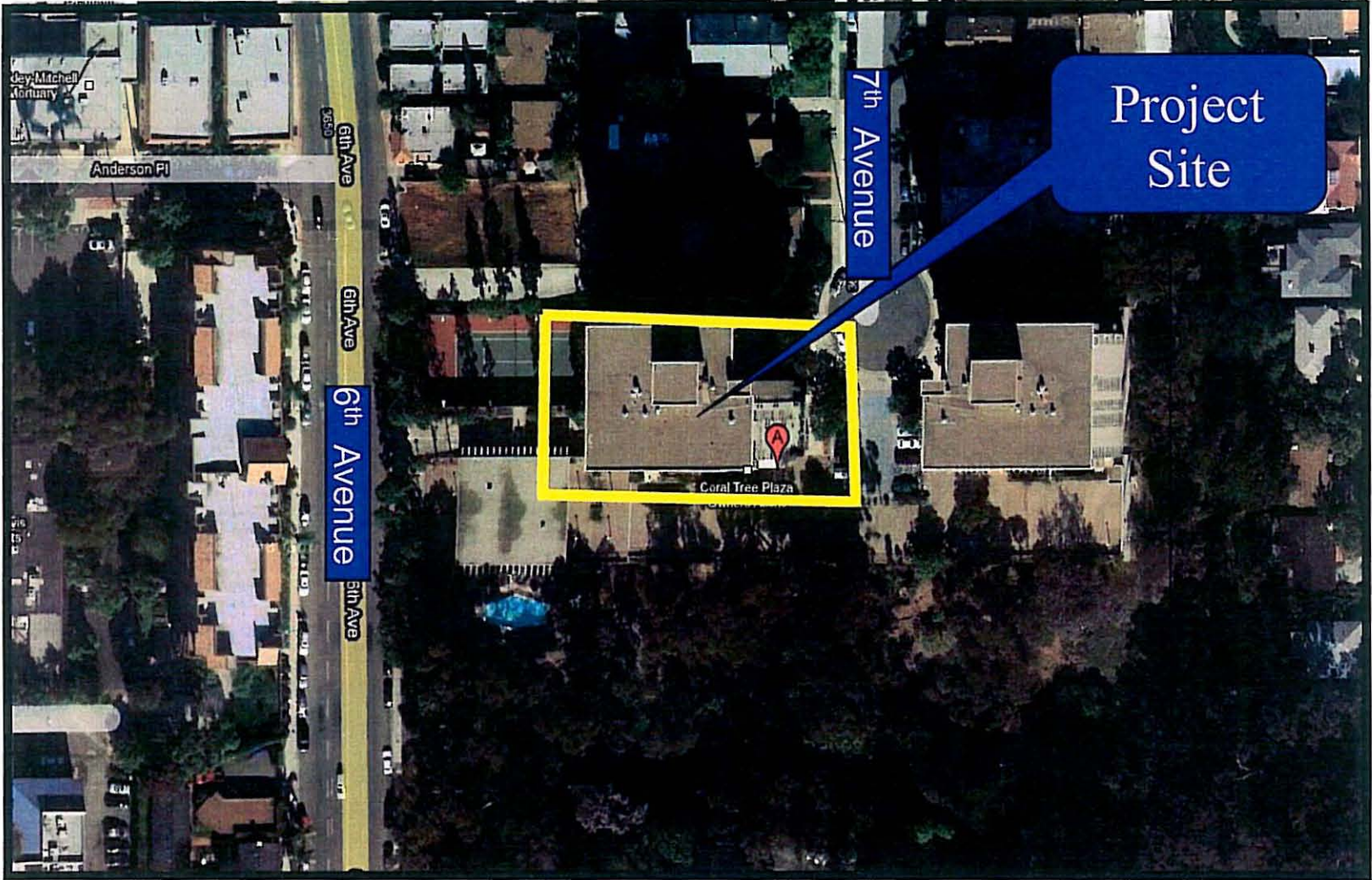


Simon Tse
Associate Planner
Development Services Department

WESTLAKE/ST

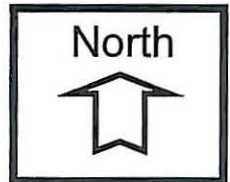
Attachments:

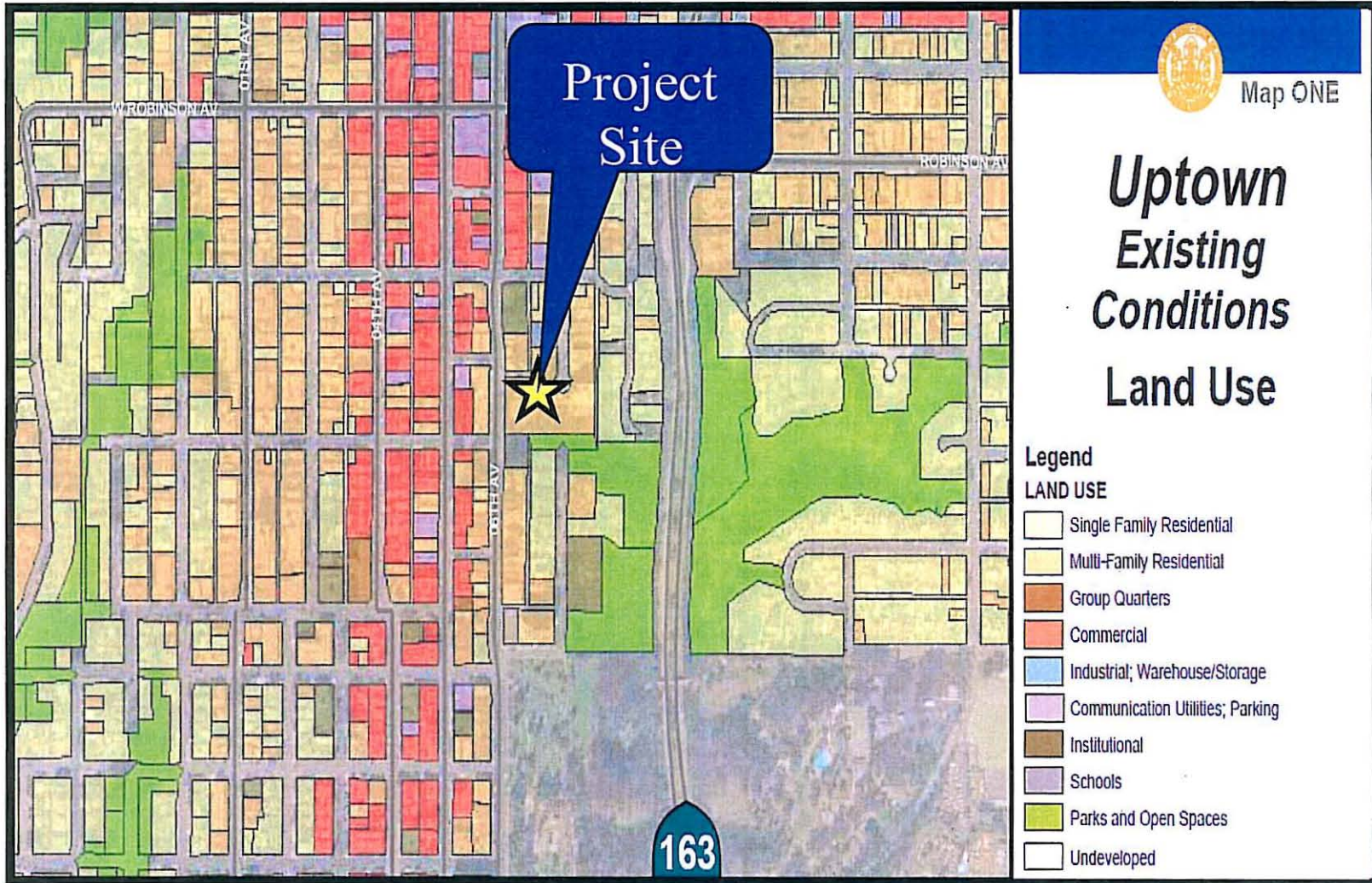
1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Site Plans
6. Project Site Photos
7. Project Photo-simulations
8. Draft Permit with Conditions
9. Draft Resolution with Findings
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Notice of Hearing
13. Project Chronology
14. Sites Considered – Justification
15. Notice of Exemption/Notice of Right to Appeal Environmental Determination
16. Determination of No Hazard to Air Navigation



Aerial Photo

FLOTV – CORAL TREE PLAZA– PROJECT NO. 195665
3634 7th AVENUE, SAN DIEGO, CA 92103

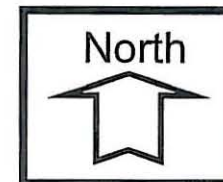




Community Land Use Map (UPTOWN)

FLOTV – CORAL TREE PLAZA – PROJECT NO. 195665

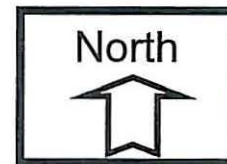
3634 7th AVENUE, SAN DIEGO, CA 92103





Project Location Map

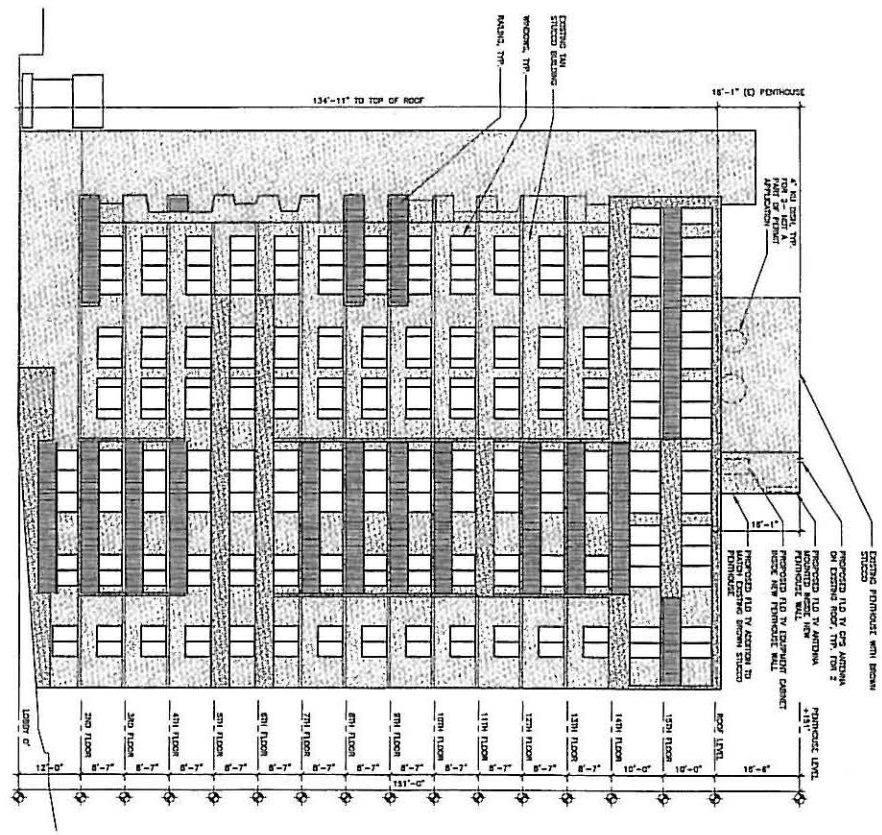
FLOTV – CORAL TREE PLAZA – PROJECT NO. 195665
3634 7th AVENUE, SAN DIEGO, CA 92103



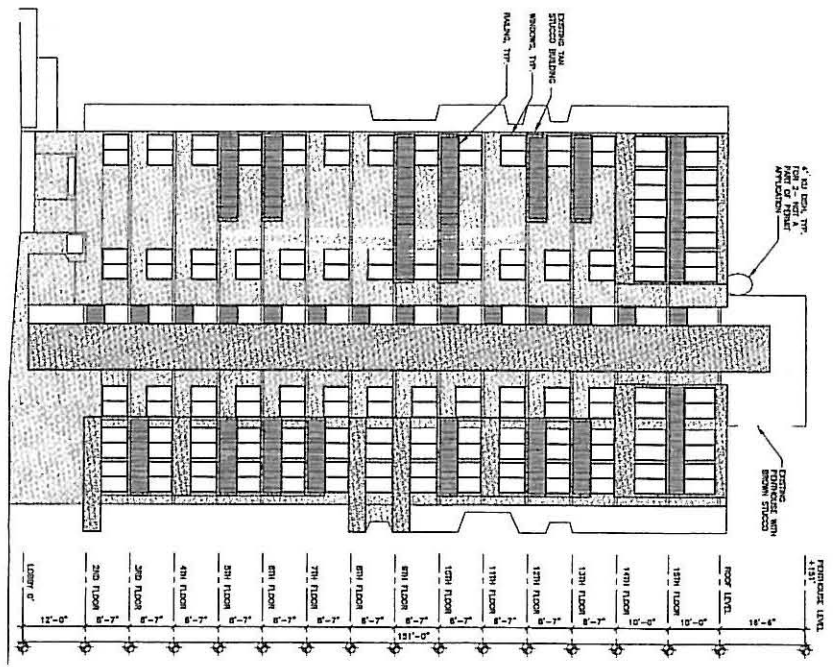
PROJECT DATA SHEET

PROJECT NAME:	FloTV Coral Tree Plaza PTS #195665	
PROJECT DESCRIPTION:	A Wireless Communication Facility (WCF) consisting of one antenna concealed inside an expanded rooftop penthouse addition behind Fiberglass Resistant Panel (FRP) screening. The associated equipment will also be concealed within an existing penthouse.	
COMMUNITY PLAN AREA:	Uptown	
DISCRETIONARY ACTIONS:	Conditional Use Permit & Site Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Mid City Communities Planned District (MCCPD) MR800B	
<u>ZONING INFORMATION:</u>		
	<u>Required</u>	<u>Proposed</u>
Height Limit:	60 feet	151 feet
Front Setback:	10 feet	10 feet
Interior Side Setback:	6 feet	6 feet
Rear Setback:	6 feet	6 feet
ADJACENT PROPERTIES:	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Residential Use/MCCPD MR800B	Single-Family Housing
SOUTH:	Residential Use/MCCPD MR800B	Single-Family Housing
EAST:	Residential Use/MCCPD MR800B	Multi-Family Housing
WEST:	Residential Use/MCCPD MR800B	Multi-Family Housing
DEVIATIONS OR VARIANCES REQUESTED:	Deviation to expand a previously conforming rooftop penthouse which is currently above the maximum allowable height within the MCCPD MR800B zone. The previously conforming penthouse is 151-ft above grade level and exceeds the maximum allowable height of 60-ft. Therefore, the proposed expansion requires a Site Development Permit Per Land Development Code section 1512.0203.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On February 2, 2010, the Uptown Community Planning Committee voted 16-0-1 to recommend approval of this project. (Attachment 10)	

NORTH ELEVATION
3/23' = 1'-0"



EAST ELEVATION
3/23' = 1'-0"



DATE: 09-21-09
BY: CMC
ISSUE FOR REVIEW

Z03
ELEVATIONS

DATE	BY	ISSUE DESCRIPTION
09-21-09	CMC	ISSUE FOR REVIEW
10-01-09	CMC	REVISED PER FLD TY COMMENTS
10-09-09	CMC	REVISED PER FLD TY COMMENTS
11-14-09	CMC	REVISED PER FLD TY COMMENTS
02-21-10	CMC	REVISED PER FLD TY COMMENTS

FLO TV
SAN-010F
CORAL TREE PLAZA
3624 7TH AVENUE, SAN DIEGO, CA 92103

DDA
DI PRIMATO ASSOCIATES
ARCHITECTURE + GRAPHICS
3623 FIRST AVENUE, SUITE 100 - SAN DIEGO, CA 92103
619.238.4210 • 619.238.4200 FAX • DDAA@DDAONLINE.COM

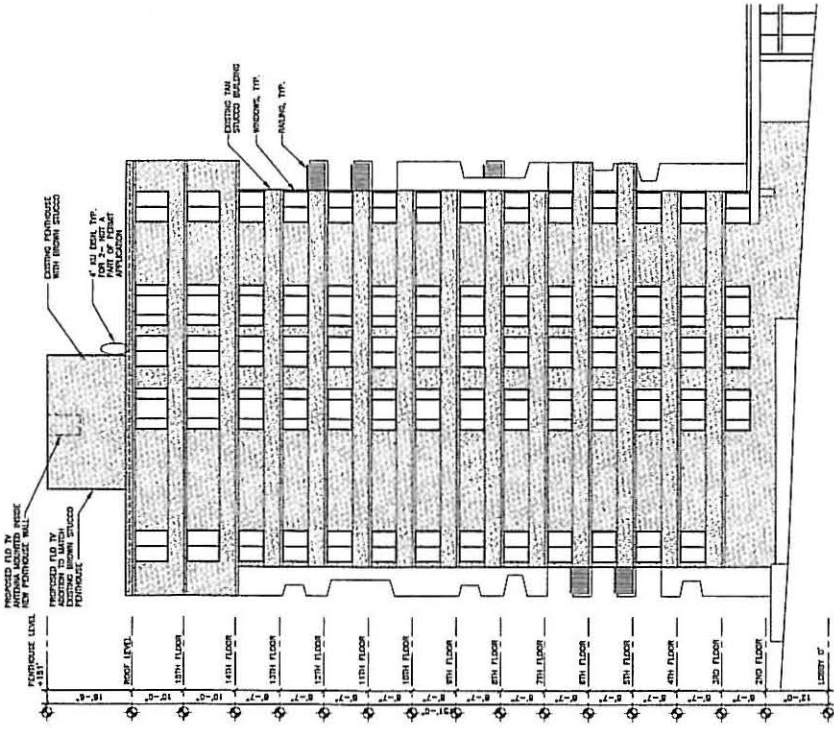
ARCHITECT

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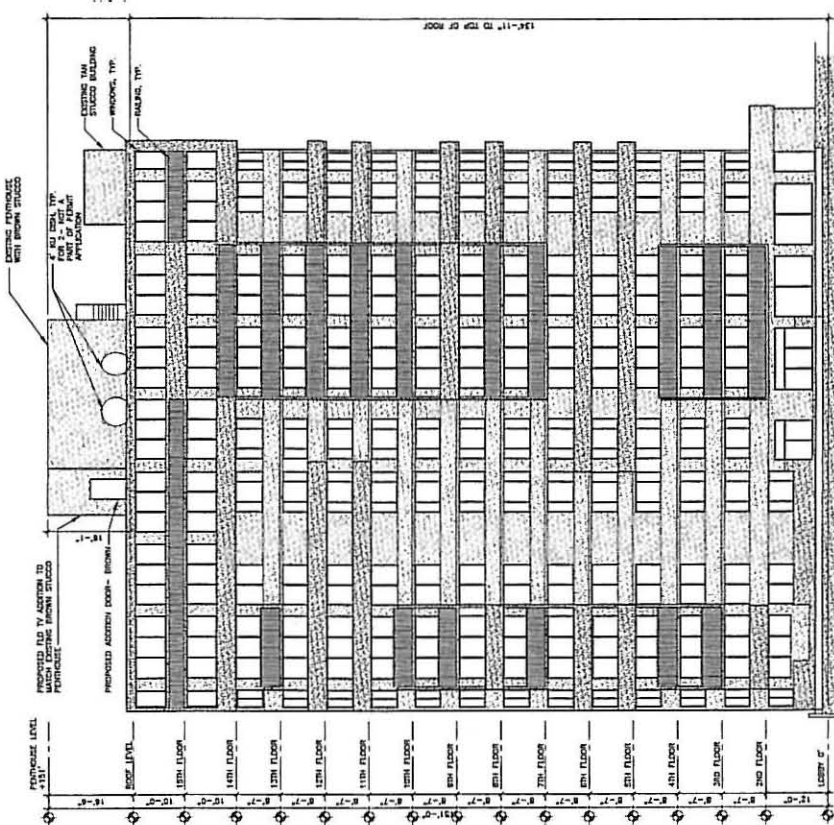


NO.	DATE	DESCRIPTION
01	08-11-08	ISSUE FOR PERMITS
02	08-11-08	REVISED PERMITS
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98	08-11-08	REVISED PERMITS
99	08-11-08	REVISED PERMITS
100	08-11-08	REVISED PERMITS

Z04
ELEVATIONS



WEST ELEVATION
3/32" = 1'-0"



SOUTH ELEVATION
3/32" = 1'-0"

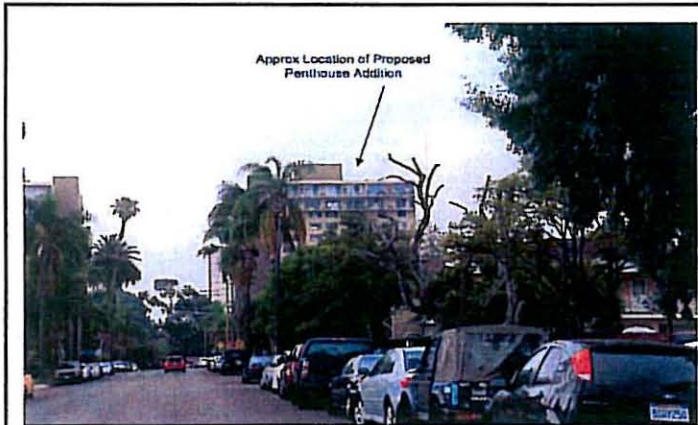


Photo 2 - Looking South at Site

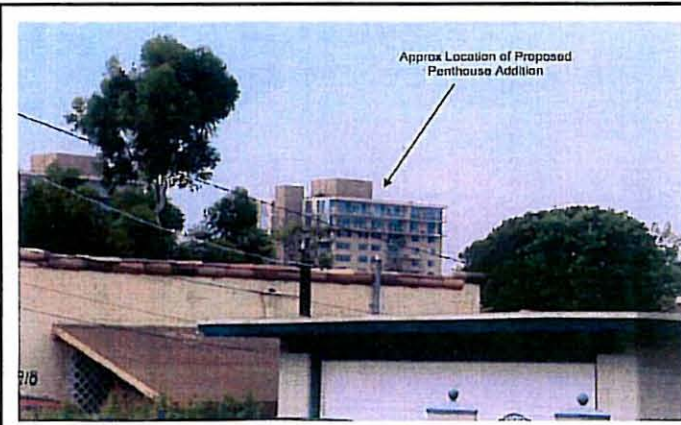


Photo 3 - Looking Southwest at Site (Medium Telephoto Setting)

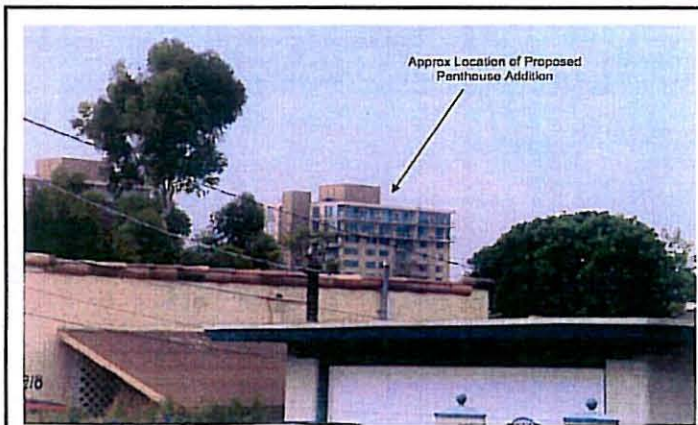


Photo 3 - Looking Southwest at Site (Medium Telephoto Setting)

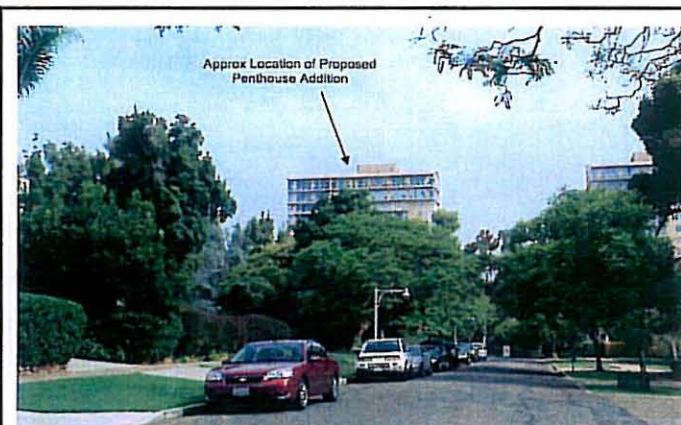


Photo 5 - Looking North at Site



Site Photos

FLOTV - CORAL TREE PLAZA - PROJECT NO. 195665
3634 7th AVENUE, SAN DIEGO, CA 92103

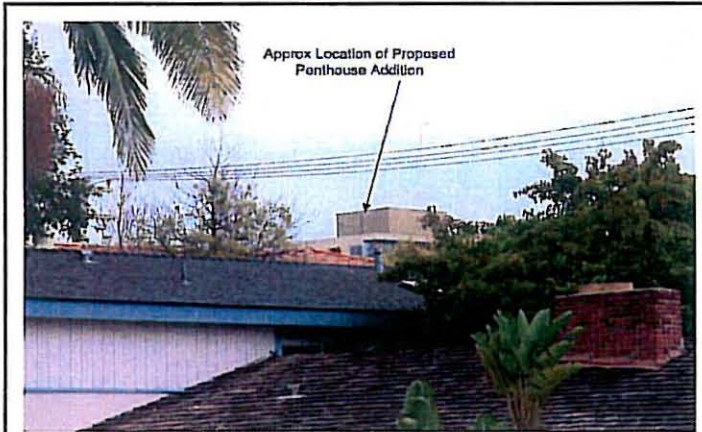


Photo 6 - Looking Northeast at Site (Strong Telephoto Setting)



Photo 7 - Looking East-northeast at Site

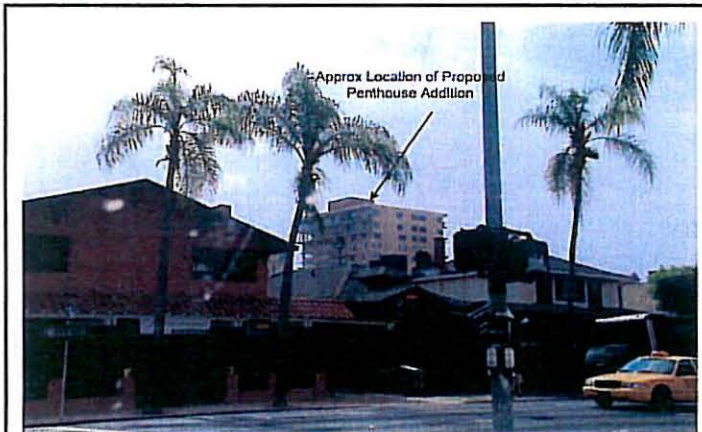


Photo 8 - Looking Southeast at Site

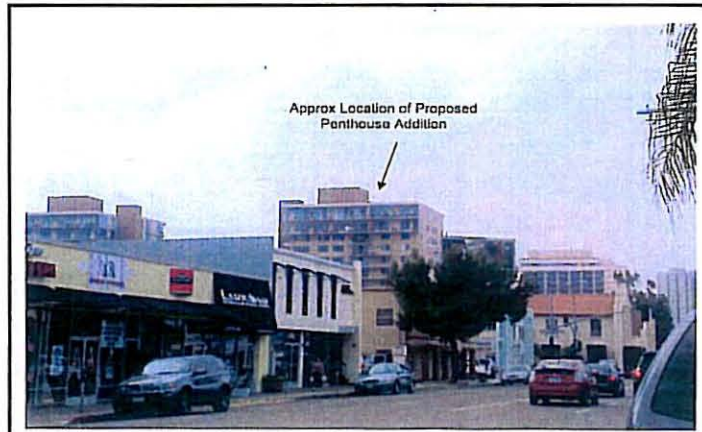


Photo 9 - Looking South-southeast at Site (Moderate Telephoto Setting)



Site Photos

FLOTV – CORAL TREE PLAZA – PROJECT NO. 195665
3634 7th AVENUE, SAN DIEGO, CA 92103

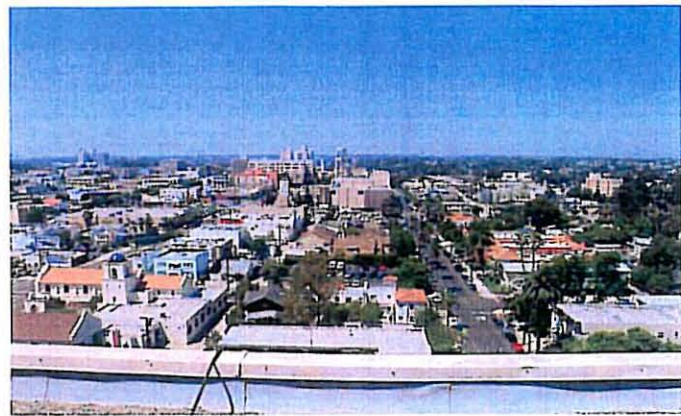


Photo 10 – Looking North from Site

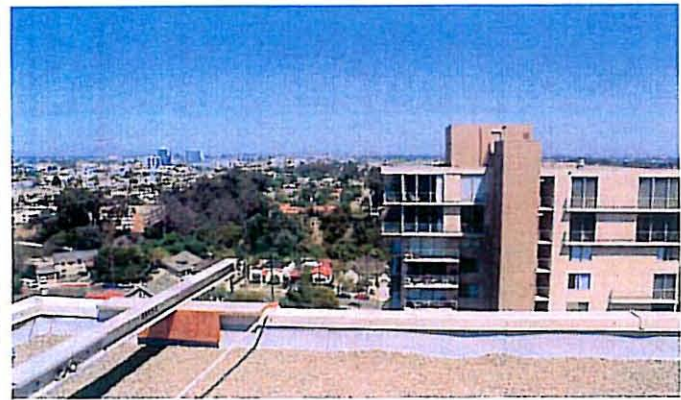


Photo 11 – Looking East from Site



Photo 12 – Looking South from Site



Photo 13 – Looking at West from Site



Site Photos

FLOTV – CORAL TREE PLAZA – PROJECT NO. 195665
3634 7th AVENUE, SAN DIEGO, CA 92103

Photosimulations

SAN-010 Coral Tree Plaza - Photosimulation of Proposed FLO TV Site
Photo Looking North-East from 6th & Ivy



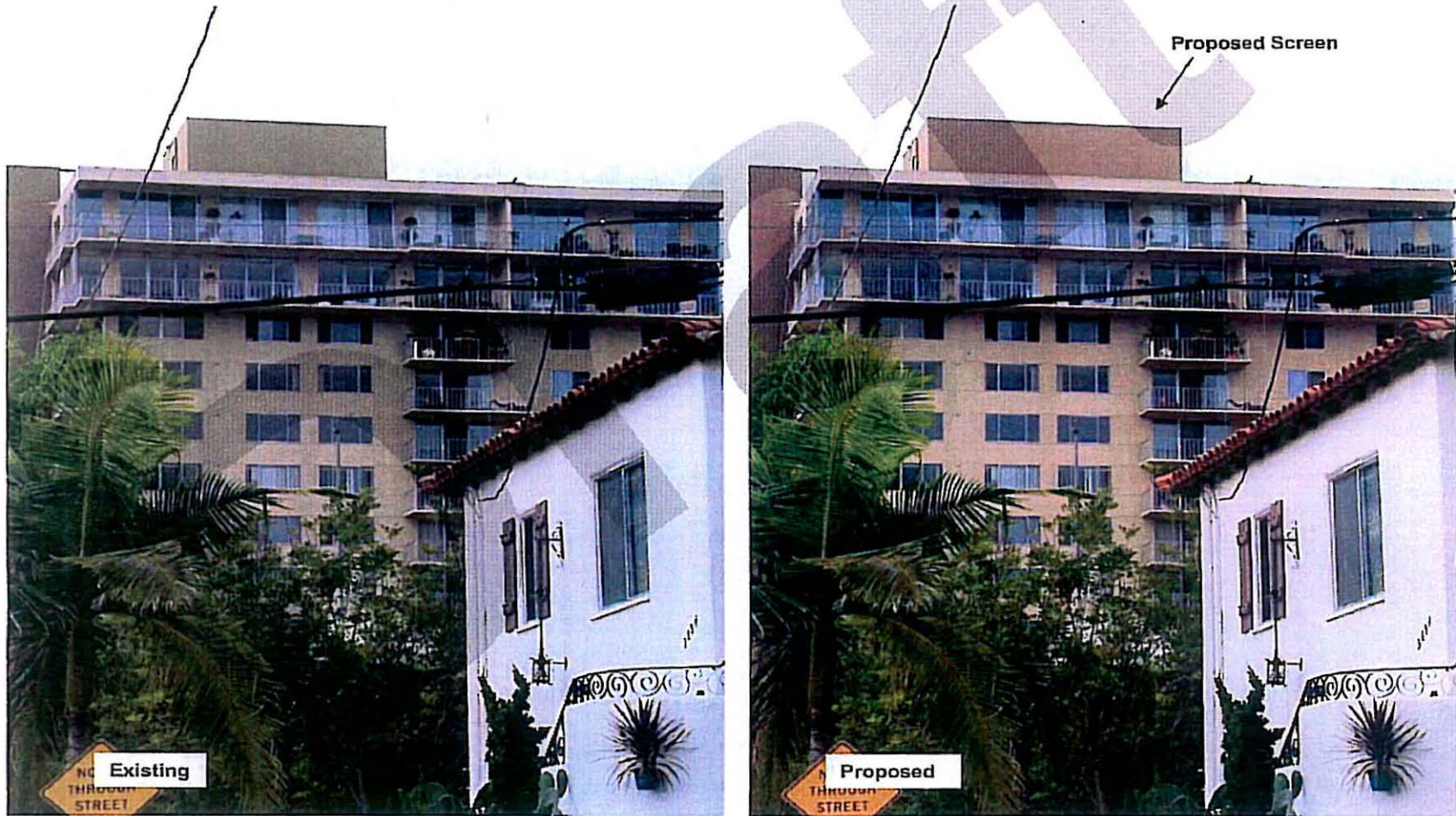
Photosimulations

SAN-010 Coral Tree Plaza - Photosimulation of Proposed FLO TV Site
Photo Looking South-East from 6th & Pennsylvania



Photosimulations

SAN-010 Coral Tree Plaza - Photosimulation of Proposed FLO TV Site
Photo Looking South West from 7th and Penn



RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO

**PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24000310

**CONDITIONAL USE PERMIT NO. 692670
SITE DEVELOPMENT PERMIT NO. 742243
FLOTV CORAL TREE PLAZA
PROJECT NO. 195665
PLANNING COMMISSION**

This Conditional Use Permit is granted by the Planning Commission, of the City of San Diego to **CORAL TREE PLAZA OWNERS ASSOCIATION**, Owner, and **FLOTV**, Permittee, pursuant to San Diego Municipal Code [SDMC] section Chapter 12, Article 6, Division 3, and Chapter 12, Article 3, Division 5 and Section 141.0420. The site is located at 3634 7th Avenue in the Mid City Communities Planned District MR800B zone of the Uptown Community Plan. The project site is legally described as Lot 1 of Balboa Park Towers, according to map thereof No. 7707, filed in the Office of the Country Recorder of San Diego Country July 19, 1973, and Lot 1 of Balboa Park Terrace, according to map thereof No. 7708, filed in the Office of the Country Recorder of San Diego Country July 19, 1973.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee for a wireless communication facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 20, 2010, on file in the Development Services Department.

The project shall include:

- a. A Wireless Communication Facility (WCF) consisting of one antenna and one equipment cabinet concealed inside an expanded rooftop penthouse addition behind Fiberglass Resistant Panel (FRP) screening painted to match; and
- b. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

10. In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The proposed design complies with the Telecommunication Facility Guidelines as a Complete Concealment Facility and as a result, the permit will not contain an expiration date. It is the responsibility of the wireless carrier and owner(s) to maintain the appearance of the approved facility to the conditions set forth in this permit unless the site is removed and restored to its original condition. Code compliance shall be notified if the appearance or the scope of the project has changed without the approval of the City Manager.

PLANNING/DESIGN REQUIREMENTS:

12. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) for this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

13. The building materials and paint used for the RF transparent screen shall not result in any noticeable lines or edges in the transition as illustrated in the approved Exhibit "A".

14. The proposed equipment cabinet shall be located inside the expanded penthouse, completely concealed from the public as illustrated in the approved Exhibit "A".

15. All cables and conduits shall be concealed inside the cable tray to the satisfactory of the Development Services Department.

16. The photosimulation(s) for the proposed project must be printed (not stapled) on the building plans. This is to ensure the construction team building the project is aware of what the completed design was approved to look like.

17. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and exhibits (including, but not limited to, elevations, and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

18. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under

construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

19. Any future requested amendments to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

20. No mechanical equipment, tank, duct, elevator, cooling tower, mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

21. Prior to the issuance of a construction permit, the telecommunication provider shall provide a certified cumulative radio frequency model study demonstrating compliance with the Federal Communications Commission's Radio Frequency Guidelines. All significant contributors to the ambient RF environment should be considered in the radio frequency model study.

22. Prior to obtaining a Construction Permit the following items must be illustrated on the construction drawings; coax cable tray, meters, telco, A/C units, generator receptacles, cable runs, bridges, dog houses and external ports. These appurtenances must be minimized visually so as to avoid the effect of changing the outward appearance of the project from what was approved on the exhibits.

23. The Owner/Permittee of record is responsible for notifying the city within 30 days of the sale or takeover of this site to any other provider.

24. Once this site is deemed complete from construction, Owner/Permittee is required to send a letter (Subject: Planning Inspection Project Number 195665) to the City of San Diego, Development Services Department requesting for a planning inspection. The site is officially deemed complete once the City Manager signs the letter. The applicant shall be provided with a copy of the signed letter for record purposes.

25. Prior to issuance of construction permits, the Permittee shall pay the Long Term Monitoring Fee to cover the City's costs associated with implementation of permit compliance monitoring.

INFORMATION ONLY:

This project is within the FAA Part 77 Noticing Area. The Determination of No Hazard to Air Navigation was issued on February 1, 2010.

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Simon Tse, Associate Planner
City of San Diego

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1180 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

[CORAL TREE OWNERS ASSOCIATION]

Owner

By _____

PRINTED NAME: _____

PRINTED TITLE: _____

[FLOTV]

Permittee

By _____

PRINTED NAME: _____

PRINTED TITLE: _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

PLANNING COMMISSION
PC REPORT NO. PC-10-039
CONDITIONAL USE PERMIT APPROVAL NO. 692670
SITE DEVELOPMENT PERMIT NO. 742243
FLOTV CORAL TREE PLAZA

WHEREAS, **CORAL TREE PLAZA OWNERS ASSOCIATION**, Owner, and **FLOTV**, Permittee, filed an application with the City of San Diego for a permit to install a Wireless Communication Facility (WCF) consisting of two (2) antennas and one equipment cabinet concealed inside an expanded rooftop penthouse behind Fiberglass Resistant Panel (FRP) screening painted to match as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 692670 and Site Development Permit No. 742243.

WHEREAS, the project site is located at 3634 7th Avenue, within the Mid City Communities Planned District MR800B zone within the Uptown Community Plan.

WHEREAS, the project site is legally described as Lot 1 of Balboa Park Towers, according to map thereof No. 7707, filed in the Office of the Country Recorder of San Diego Country July 19, 1973, and Lot 1 of Balboa Park Terrace, according to map thereof No. 7708, filed in the Office of the Country Recorder of San Diego Country July 19, 1973.

WHEREAS, on May 20, 2010, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 692670 and Site Development Permit No. 742243 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated May 20, 2010.

FINDINGS:

Conditional Use Permit - Section 126.0305

- 1. The proposed development will not adversely affect the applicable land use plan;**

The City of San Diego General Plan addresses wireless communication facilities with specific recommendations. The City of San Diego General Plan recommends minimizing visual impacts by concealing wireless facilities in existing structures when possible. It also recommends that facilities be aesthetically pleasing and respectful to the neighborhood context and to conceal mechanical equipment and devices associated with wireless facilities in underground vaults or unobtrusive structures.

Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permit process. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with

conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. The one panel antenna and the associated equipment are concealed inside the expanded penthouse, painted to match. As a result, the proposed development is consistent with the recommendations identified and would not adversely affect the Uptown Community Plan or the City of San Diego General Plan and Progress Guide.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the “placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emissions to the extent that such facilities comply with the Federal Communication Commission’s (FCC) standards for such emissions.” The proposed project would be consistent with the FCC’s regulations for wireless facilities. To insure that the FCC standards are being met, a condition has been added to the permit to require FloTV to submit a Radio Frequency Report prior to the issuance of a building permit. Therefore, based on the above, the project would not result in any significant health or safety risks to the surrounding area.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

The project complies with all applicable development regulations of the Land Development Code and the City of San Diego Communication Antenna Regulations (Land Development Code Section 141.0420). This section of the code requires telecommunication facilities to be minimally visible through the use of architecture, landscape architecture and siting solutions. The antenna and equipment are concealed inside the expanded penthouse, painted to match behind Fiberglass Resistant Panels (FRP). The existing use of the property is residential and as such, requires a Conditional Use Permit. The project is also requesting a deviation to the height restriction and requires a Mid City Communities Planned District Permit which is processed as a Site Development Permit. The proposed height deviation to exceed the 60-ft height requirement would not exceed the existing height of the penthouse and will be designed to appear as it was part of the structure. Therefore, FloTV’s project complies to the maximum extent feasible with the applicable regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

Typically, the City of San Diego encourages wireless carriers to locate on non-residential properties. In this case, the search ring identifies non-residential properties, but due to the height of the existing building FloTV was able to cover a larger objective area with one site. The proposed antenna and equipment are concealed inside the expanded penthouse behind FRP screening. Additionally, FloTV is required to submit a Radio Frequency Report study demonstrating compliance with Federal Communication Commissions standards. This project has been designed to comply with Section 141.0420 and the Wireless Communication Facility Guidelines. Additionally, this site will address FloTV’s limited network coverage to the roadways, homes, and business located in the area. Thus, the proposed use is appropriate for this site.

Site Development Permit - Section 126.0504

Findings for all Site Development Permits

1. The proposed development will not adversely affect the applicable land use plan;

Both the City of San Diego General Plan addresses wireless communication facilities with specific recommendations. The City of San Diego General Plan recommends minimizing visual impacts by concealing wireless facilities in existing structures when possible. It also recommends that facilities be aesthetically pleasing and respectful to the neighborhood context and to conceal mechanical equipment and devices associated with wireless facilities in underground vaults or unobtrusive structures.

Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permit process. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. The one panel antenna and the associated equipment are concealed inside the expanded penthouse, painted to match. As a result, the proposed development is consistent with the recommendations identified and would not adversely affect the Uptown Community Plan or the City of San Diego General Plan and Progress Guide.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The Telecommunication Act of 1996 preempts local governments from regulating the “placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emissions to the extent that such facilities comply with the Federal Communication Commission’s (FCC) standards for such emissions.” The proposed project would be consistent with the FCC’s regulations for wireless facilities. To insure that the FCC standards are being met, a condition has been added to the permit to require FloTV to submit a Radio Frequency Report prior to the issuance of a building permit. Therefore, based on the above, the project would not result in any significant health or safety risks to the surrounding area.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The project complies with all applicable development regulations of the Land Development Code and the City of San Diego Communication Antenna Regulations (Land Development Code Section 141.0420). This section of the code requires telecommunication facilities to be minimally visible through the use of architecture, landscape architecture and siting solutions. The antenna and equipment are concealed inside the expanded penthouse, painted to match behind Fiberglass Resistant Panels (FRP). The existing use of the property is residential and as such, requires a Conditional Use Permit. The project is also requesting a deviation to the height restriction and requires a Mid City Communities Planned District Permit which is processed as a Site Development Permit. The proposed height deviation to exceed the 60-ft height requirement would not exceed the existing height of the penthouse and will be designed to appear as it was part of the

structure. Therefore, FloTV's project complies to the maximum extent feasible with the applicable regulations of the Land Development Code.

4. **Conformance With Community Plan and Design Manuals.** The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District (Section 1512.0101), and the following documents, as applicable to the site: the Mid-City Community Plan, the Greater North Park Community Plan, the State University Community Plan, the Uptown Community Plan, the Mid-City Design Plan (California State Polytechnic University, Pomona; Graduate studies in Landscape Architecture; June, 1983), Design Manual for the Normal Heights Demonstration Area and the City Heights Demonstration Area (HCH Associates and Gary Coad; April, 1984), The Design Study for the Commercial Revitalization of El Cajon Boulevard (Land Studio, Rob Quigley, Kathleen McCormick), The North Park Design Study, Volume 1, Design Concept and Volume 2, Design Manual (The Jerde Partnership, Inc. and Lawrence Reed Moline, Ltd.), Sears Site Development Program (Gerald Gast and Williams-Kuebelbeck and Assoc.; 1987) and will not adversely affect the Greater North Park Community Plan, the Uptown Community Plan or the General Plan of the City of San Diego;

The proposed FloTV WCF has been designed to completely conceal the WCF from any public vantage point. The penthouse will be expanded roughly 225 square feet and will be painted and textured to match the existing penthouse. Once completed, the penthouse and the expansion shall appear as one structure. The associated equipment has also been designed and located so that it is concealed behind the expanded penthouse and will not be visible from any public perspectives. As designed, the proposed WCF will not adversely affect the Uptown Community Plan or the General Plan of the City of San Diego.

5. **Compatibility with surrounding development.** The proposed development will be compatible with existing and planned land use on adjoining properties and will not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable;

Currently, the existing condominium contains two separate towers, each with its own rooftop penthouse. The 225 square foot addition would accommodate a fully stealth design and would result in minimal visual impact. The WCF would not constitute a disruptive element to the neighborhood and community since the antenna and equipment are completely concealed. In addition, the architectural harmony with the surrounding neighborhood and community would be preserved with a complete concealment design as proposed by FloTV.

6. **No Detriment to Health, Safety and Welfare.** The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity;

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emissions to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." The proposed project would be consistent with the FCC's regulations for wireless facilities. To insure

that the FCC standards are being met, a condition has been added to the permit to require FloTV to submit a Radio Frequency Report prior to the issuance of a building permit. Therefore, based on the above, the project would not result in any significant health or safety risks to the surrounding area.

7. **Adequate Public Facilities. For residential and mixed residential/commercial projects within the park-deficient neighborhoods shown on Map Number B-4104 that are not exempted by Section 1512.0203(b)(1)(A) or (B), the proposed development provides a minimum of 750 square feet of on-site usable recreational open space area per dwelling unit. The on-site usable recreational open space area shall not be located within any area of the site used for vehicle parking, or ingress and egress, and shall be configured to have a minimum of 10 feet in each dimension. The area will be landscaped and may also include hardscape and recreational facilities;**

The proposed Wireless Communication Facility (WCF) is located on the rooftop of an existing condominium inside an expanded 225-square foot rooftop penthouse. The expanded penthouse shall only be used for the unmanned antenna and equipment cabinet. The existing recreational open space area would not be impacted by this proposed FloTV WCF.

8. **Adequate Lighting. In the absence of a street light within 150 feet of the property, adequate neighborhood-serving security lighting consistent with the Municipal Code is provided on-site; and**

The proposed Wireless Communication Facility would not result in any need for additional lighting to the property.

9. **The proposed use will comply with the relevant regulations in the San Diego Municipal Code.**

The project complies with all applicable development regulations of the Land Development Code except for height and the City of San Diego Communication Antenna Regulations (Land Development Code Section 141.0420). This section of the code requires telecommunication facilities to be minimally visible through the use of architecture, landscape architecture and siting solutions. The antenna and equipment are concealed inside the expanded penthouse, painted to match behind Fiberglass Resistant Panels (FRP). The existing use of the property is residential and as such, requires a Conditional Use Permit. The project is also requesting a deviation to the height restriction and requires a Mid City Communities Planned District Permit which is processed as a Site Development Permit. The proposed height deviation to exceed the 60-ft height requirement would not exceed the existing height of the penthouse and will be designed to appear as it was part of the structure. Therefore, FloTV's project complies for the most part with the applicable regulations of the Land Development Code.

10. **The proposed structure height is appropriate because the location of the site, existing neighborhood character, and project design including massing, step backs, building façade composition and modulation, material and fenestration patterns when considered together, would ensure the development's compatibility with the existing character of the Uptown Community Plan Area.**

The proposed Wireless Communication Facility is located on the rooftop inside an expanded penthouse within the Mid City Communities Planned District MR800B zone which limits all development to a 60-ft height requirement. However, the existing condominium is a previously conforming structure and is currently 181-ft high. The proposed rooftop penthouse expansion would be consistent with the overall height of the existing penthouse. The 225 square foot expansion would accommodate a fully stealth design that completely conceals both the antenna and the equipment cabinet. In doing so, the rooftop would result in minimal visual impact and maintain its existing appearance. The structure height is appropriate in an effort to match the dimensions of the existing penthouse (height). The penthouse would be painted to match and when considered together, would preserve the existing character of the building. As designed, the project would not adversely impact the character of the Uptown Community Plan Area.

11. The proposed development includes an additional benefit to the community.

The proposed Wireless Communication Facility would allow FloTV to provide and maintain a significant coverage objective within the Uptown community. Due to the height of the existing condominium, FloTV would be able to provide a greater coverage area as opposed to a lower structure. Additionally, the proposed location offered a fully stealth design option that would preserve the appearance of the building without the need to mount any exterior mounted component. The proposed WCF would provide an additional wireless provider option to the Uptown Community while maintaining a complete concealment design that complies with the City of San Diego General Plan and the City of San Diego Municipal code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 692670 and Site Development Permit No. 742243 is hereby GRANTED by the Conditional Use Permit No. 692670 and Site Development Permit No. 742243 to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Conditional Use Permit No. 692670 and Site Development Permit No. 742243 copy of which is attached hereto and made a part hereof.

Simon Tse
Associate Planner
Development Services

Adopted on: May 20, 2010

Internal Order No. 24000310