



## MEMORANDUM

August 23, 2007

TO: Honorable Members of the City Council

FROM: Mayor Jerry Sanders

SUBJECT: Sunroad Centrum 12 Office Building Remedial Plan

I'm writing to update you on the remedial plan that I intend to implement to prevent future situations such as the one that occurred with the Centrum 12 Office Building. It is clear now that the Sunroad situation comes as a result of numerous "system" failures between the City and outside agencies, as well as failures among departments within the City itself. There were also serious weaknesses in communications that indicate the absence of proper procedures. Lastly, we can now also conclude that there was a failure on the part of City staff to act on changing regulations and external conditions that had a material impact on public safety and the viability of the Sunroad project. The following remedial plan is offered to address these issues.

### **Remedial Step #1- Additional DSD Controls**

In order to ensure that better controls are in place, the DSD staff have been instructed to document in detail any FAA issues related to height, and any other approvals required from other agencies in the Project Tracking System, and place a "red flag" on any project where necessary, to ensure that field staff will be aware of such issues.

Using the system, the person identifying the issue or potential issue for the site (such as height, environmental, grading limitations, etc.) will enter an "inspection issue" into the inspection plan for the affected permits in the Project Tracking System. The "red flag" will remain in the system as a requirement for inspection staff to monitor during construction for the triggering event.

If the construction activity approaches the triggering event, (such as a height limit or grading limit) the inspector will enter a second red flag notation, which will prevent all inspections from being scheduled on the site, and will generate a report that is issued to the department director. If the triggering event reaches the threshold, the inspector will issue a Stop Work Order upon consulting with the City Attorney. In the event there is a disagreement on the Stop Work Order between the director, Chief Building Official and/or a deputy director, relating to health or safety, the Land Use Chief will be called upon to resolve the situation and sign off on that decision in writing.

## **Remedial Step #2: Require expanded notification of other agencies for projects in proximity to City Airports.**

The missteps that took place on the Sunroad project could have been avoided by simply stopping construction in the field at 160 feet and waiting for resolution with the FAA on the additional height. The Sunroad experience provides a learning tool to prevent such occurrences in the future.

The following procedures have been put in place.

- FAA noticing requirements have been expanded.
- Notice of “No-Hazard” from the FAA must be issued prior to permit issuance for buildings within 4 miles of an airport that have altered their height.
- Extensive outreach through DSD’s web page, as well as signage and information in the department facilities, is being promoted to inform all customers of these requirements.
- DSD staff has been trained on FAA procedures and requirements for notification. Additional trainings will continue to be held to ensure that staff remains up to date.
- DSD will open a dialogue with CalTrans and any other applicable agencies to see if additional noticing would be welcomed.

## **Remedial Step #3: Move the Airports Department Away from Land Use & Economic Development.**

The Airports Department will now report to the Assistant Chief Operating Officer. The Airports Department was moved under the Real Estate Assets Department (READ) because of the number of leases managed by the Airport. While READ is separate and apart from DSD and Planning, this move did not take into account the inherent and/or potential conflict of interest created since all four Departments (Airports, READ, Planning and DSD) report to the same Deputy Chief Operating Officer, and information could be controlled at the Deputy Chief level and never elevated to the Chief Operating Officer or the Mayor.

## **Remedial Step #4: Assemble a team to evaluate the Airport Land Use Compatibility Plan (ALUCP) and recommend interim measures, points for policy discussion and disagreements with the Regional Airport Authority.**

A major contributing factor to the events that led to the Sunroad breakdown is a long-standing communications problem between DSD and the Airport Authority. While in the past, the City and the Airport Authority did not work well together, over the past year that relationship has begun to improve due to changes within both organizations. DSD and Planning are now working more closely with the San Diego Airport Authority, which is charged by the State with developing Airport Land Use Compatibility Plans which evaluate basic criteria including airspace obstructions.

Going forward, Planning and Development Services staff will establish a working relationship with Airport Authority staff and any proposed project either within the Airport Authority sphere of influence or within one mile of such sphere will be discussed with appropriate Airport Authority staff for compliance with FAA regulations and safety concerns. All comments received from the Airport Authority will be documented and a specific “sign-off” letter will be received by the Airport Authority prior to any affected project’s approval.

Further, with the probable passage of SB 10, the Regional Aviation Plan produced by the Regional Airport Authority (RAA) will be integrated into the Regional Transportation Plan at SANDAG. The Regional Aviation Plan will include the ALUCP’s and Master Plans for each airport. This new format, coupled with the new ATAG planning process instituted by the Airport Authority, will encourage greater collaboration between San Diego public agencies and serve as an additional safeguard against the type of regulatory breakdowns experienced in the Sunroad Spectrum 12 Building development.

In order to maximize the City’s participation in this new process, I have instructed the Director of the Intergovernmental Relations Department (IRD) to put together an interdisciplinary team to interface with the RAA and SANDAG on broader regional aviation policy issues. IRD is already the current City liaison with SANDAG and works regularly to facilitate transportation and planning communication between the City’s operational departments and SANDAG, the City’s regional planning partner. Therefore IRD is the most logical entity to spearhead the City’s involvement required by SB 10. Such an arrangement will fulfill the Investigation’s recommendation that:

“A team of individuals willing and able to work with the Airport Authority without hostility should be assembled under the authority of the Mayor’s office rather than any individual department. This team would be tasked to analyze the ALUCP and other Regional Airport Authority activities to determine potential conflicts, potential agreement and possible interim measures to address their recommendations.”<sup>1</sup>

### **Remedial Step #5: Create the Economic Development Impact Committee**

The Economic Development Impact Committee or EDIC will be chaired by the Deputy Chief Operating Officer for Land Use and Economic Development and will include the Deputy Chief Operating Officer for Public Works, the Director of Planning, the Director of Development Services, the Director of Engineering, the Deputy Chief Operating Officer for Community and Legislative Services, the Director of Intergovernmental Relations, the Chief Operating Officer and representative(s) from the City Attorneys Office. This body will meet at least monthly, and will serve as a multi-disciplinary team that reviews proposed and current projects, pending and current regulations and the potential impact changing regulations may have on current and future projects. Additionally, the team will keep the Mayor and City Council apprised of the status of significant development projects. The team will also review the issues identified by staff

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<sup>1</sup> Investigation Concerning the Sunroad Centrum 12 Building, July 19, 2007, p. 39.

and will develop an action plan to resolve any issues identified by DSD, Planning or Engineering staff relating to projects under development.

It is important that the Office of the City Attorney be an active participant. The role of the team is to broadly identify potential risks to public health and safety due to changing regulations and legislation as well as to ensure developers are well apprised of their obligations.

This interdisciplinary committee will have responsibility to be informed of all pending changes to regulations affecting land use and projects, based on the joint review by the integrated Planning and DSD team. All major impacts to current projects will be reported to this committee for resolution and then elevated to the Mayor and City Council as appropriate and in a timely manner.

**Remedial Step #6: Improve the business relationship between the Development Services Department (DSD) and the City Attorney's Office.**

Timely and accurate communications must be improved between all City Departments and the City Attorney's Office. The establishment of the Economic Development Impact Committee will strengthen the collaboration between the City Attorney and DSD.

**ADDITIONAL REMEDIAL ACTION UNDER CONSIDERATION**

**Combine the Planning Department and the Development Services Department (DSD) into a single Department under a single Director.**

My staff is reviewing this recommendation. The stated goal of the recommended merger of DSD with Planning is to develop a comprehensive, holistic approach to problem solving that community planners are assumed to possess by the very nature of their training and professional discipline. For example, planners often consider the entire "environment" in developing community plans and assess changing conditions from a broader, long-term perspective

Research is underway as to the appropriateness and/or feasibility of merging the two departments. Other municipalities are being contacted to determine how Planning and Development Services departments are structured to best serve the public and fulfill the missions of long range planning and development services (permitting, project management, etc.) Although the research is not completed, it appears that there is no one size fits all structure or best practice among municipalities for these two departments to achieve optimal results.

Based on the research conducted to date, planning and development services professionals disagree on a "best organizational structure" as evidenced by cities that have merged planning and permitting functions, pulled them apart and merged functions again. This has been the history of San Diego's Development Services Department. Cities have organized long range planning and development services uniquely to best

meet the needs of the public and the local political dynamics. Los Angeles and Sacramento, for example, have separate planning departments (like San Diego), while San Jose, San Francisco and the County of San Diego have combined departments. Other cities such as Long Beach and Oakland have organizational structures that are not fully integrated but are uniquely organized under Community Development (Oakland) or Planning and Building (Long Beach). Having a planning department completely separate from development services, as is the current situation in San Diego, may be more uncommon than combined departments, but is not unique.

The research also indicates that organizational change is particularly difficult in the complex environment of municipal land use and must be arrived at and implemented in a thoughtful manner, keeping in mind the impact of change on customers and stakeholders. In a 2002 study of development services for San Jose, Zucker Systems recognized that each situation is different and custom-built solutions must be crafted.

“In our national experience, now having worked directly with some 150 cities and counties and consulted with hundreds more in our seminars, we have seen numerous variations. One size or approach does not fill all. Each community is unique and can function best by a model tailored to the specific community.”<sup>2</sup>

The recommendation to merge the two departments may be the best solution, but it is premature to make that determination. The Sunroad Centrum 12 building demonstrated a major breakdown within Development Services. That said, it would be a mistake to simply merge both departments into one entity without a greater analysis of the impacts to the City, the departments, the customers and to the greater community of stakeholders impacted by City planning and development.

While ultimately the merger of these two departments is looked at as part of their collective BPR's (Business Process Re-engineering), structural change needs to be made immediately to improve communication between departments and engage high level/senior management decision makers to resolve issues that require a broad approach to problem solving. The Report states: “There appears to be no mechanism in the City to guarantee that proposed law or changes to plans like the ALUCP are reviewed among departments to determine impacts of the proposed changes, how to deal with them in the interim, or steps to take if they are adopted and become law.”<sup>3</sup> To correct this omission the city will create the Economic Development Impact Committee referenced above.

cc: Jay Goldstone, Interim COO  
City Attorney Mike Aguirre  
Andrea Tevlin, IBA

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<sup>2</sup> Development Services Study: San Jose prepared by Zucker Systems, October 2002, p. 54.

<sup>3</sup> Investigation Concerning the Sunroad Centrum 12 Building, July 19, 2007, p. 38.