

## **General Dynamics Site Timeline Regarding Master Permits**

- On July 27, 1984, the San Diego Association of Governments (SANDAG), acting as the Airport Land Use Commission (ALUC) for San Diego County, adopted the Montgomery Field Comprehensive Land Use Plan (CLUP). Sunroad Spectrum site not included within the boundaries of the CLUP.
- On March 18, 1991, the San Diego City Council adopted the Municipal Code Section 101.0444 – Airport Environs Overlay Zone. This implemented the land use, noise attenuation, and other standards of the Comprehensive Land Use Plans as adopted by SANDAG.
- On October 6, 1992, the Kearny Mesa Community Plan was adopted by the City Council.
- On July 25, 1995, the City Council approved a Memorandum of Understanding between the City of San Diego and General Dynamics(GD) for reuse of the site. It further directed the City Manager to enter into negotiations with GD on a potential Development Agreement.
- On December 14, 1995, the Planning Commission initiated the Progress Guide and General Plan and Kearny Mesa Community Plan Amendment.
- On October 25, 1996, SANDAG amended the CLUP. Sunroad Spectrum site not included within the boundaries of the CLUP.
- On June 27, 1997, the Draft Environmental Impact Report (EIR) was sent to Caltrans, Kearny Mesa Planning Group and Naval Air Station Miramar among other agencies and interested parties. The EIR did state that the majority of the site is in the Miramar Air Station Airport Influence Area, however not in an Accident Potential Zone, and that a small area of the southeastern portion of the site is located in the Montgomery Field Airport Influence Area.
- On August 4, 1997, the Kearny Mesa Planning Group commented on the Draft EIR, with no mention of height issues.
- On August 7, 1997, the US Marine Corp commented on the Draft EIR regarding the possible use of fireworks, lasers and search lights as being a safety issue.
- On August 8, 1997, the City received a comment letter from Caltrans regarding transportation/circulation issues with the freeway system. No mention was made of any concerns for aviation safety based on the projects proposed for entitlements.

- On September 22, 1997, the Kearny Mesa Planning Group voted 10-2-1 to recommend approval of the project with recommendations regarding land uses on particular planning areas of the site.
- On October 23, 1997, the Planning Commission voted 5-0 to recommend approval of the New Century Center Project.
- On November 18, 1997, the City Council certified the EIR; adopted the Progress Guide and General plan and Kearny Mesa Community Plan Amendments; adopted the New Century Center Master Plan; approved the Development Agreement; and adopted the project including the Rezone, Vesting Tentative Map, Planned Commercial Development Permit, Planned Industrial Development Permit, Resource Protection Ordinance Permit, the New Century Center Development Standards and Design Manual.
- On December 2, 1997, the second reading of the Rezoning Ordinance occurred at City Council.

## **LENNAR**

- On August 5, 1999, the Planning Commission initiated a Community Plan Amendment to allow residential uses on the site.
- On November 2, 1999, an application was made to the City for amendments to the New Century Master plan and Kearny Mesa Community Plan, a Rezone, Tentative Parcel Map and a Planned Residential Development Permit.
- On December 15, 1999, an application was made to the City by Lennar Partners to amend the New Century Master Plan, Kearny Mesa Community Plan, Vesting Tentative Map/Street Vacation.
- On July 6, 2000, an Addendum to EIR No. 99-1269 was distributed to Caltrans, Marine Corp Airbases Western Area, and the Kearny Mesa Planning Group.
- On July 19, 2000, the Marine Corp sent a letter stating that the proposed project is consistent with their land use plan, but that residents might hear noise from aircraft.
- On August 17, 2000, the Planning Commission recommended approval of the project.
- On October 3, 2000, the City Council certified the Addendum to the EIR, and approved the amendments to the Master Plan and all related permit amendments.

- On October 16, 2000, the City Council approved the amendments to the Development Agreement.

## **SUNROAD**

- On April 5, 2001, the Planning Commission initiated an amendment to the Kearny Mesa Community Plan
- On April 27, 2001, Sunroad Enterprises applied for amendments to the New Century Master Plan, Kearny Mesa Community Plan and a rezone.
- On November 21, 2001, a Draft Mitigated Negative Declaration was distributed to Marine Corp Air Station Miramar and the Kearny Mesa planning group among other agencies and individuals.
- On December 5, 2001 the Marine Corps commented on the Draft MND regarding noise however again stated that the project was consistent with their land use plan.
- On January 29, 2002, after recommended approval by the Planning Commission, the City Council directed the City manager to initiate a second amendment to the Development Agreement.
- On June 13, 2002, The Planning Commission recommended approval of the amendments to the City Council.
- On November 12, 2002, the City Council the City Council approved the New Century Center Master Plan, Rezone, Community Plan Amendment, and Development Agreement Amendments.
- On October 4, 2004, the San Diego County Regional Airport Authority, acting as the ALUC, amended the Montgomery Field CLUP and as part renamed it the Airport Land Use Compatibly Plan (ALUCP). No changes were made to the boundaries of Montgomery Field's airport noise contour zone or flight activity zone that were originally established in 1984 by SANDAG. Sunroad Spectrum site not included within the boundaries of the CLUP.

## **SUNROAD CENTRUM- 12**

- On March 10, 2005 the Process 2, Substantial Conformance Review (SCR) application was Deemed Complete.
- On June 16, 2005, the Kearny Mesa Planning Group voted to recommend approval of this project by a vote of 11-2-0. According to a letter from Chairman Buzz Gibbs, the group found this project to be "very attractive", "well designed",

and one that “upgrades the image of Kearny Mesa...increasing the employment density...and making more efficient use of the available land”. The two opposed members commented that “this tall of a building seems out of place in Kearny Mesa”. The group also commented that there “may be issues with the suggested second and third office buildings as one of those buildings or the required parking would be in the same location as was proposed for the relocated SDG&E substation.”

- On September 16, 2005 the Building Permit application was submitted.
- On September 30, 2005 the Building Permit application was deemed complete.
- On February 10, 2006 – SCR approved by City.
- On March 27, 2006 the Building Permit for the building foundation and frame was issued.
- On April 3, 2006, John Cruz (City) spoke with Dan Munch of BPA Architects who just got a call from an Inspector Park with the FAA. Inspector Park referred him to Dave Butterfield of the Los Angeles FAA office – who in turn referred him to Karen McDonald an Obstacle Evaluator with the FAA. Mr. Munch believed that they wanted to inspect his project, but wasn't sure why.
- On April 5, 2006, Sunroad submitted the project to the FAA for an Aviation Study at 180 ft. (2006-AWP-1638-OE)
- On April 24, 2006, Karen McDonald (FAA) issued a letter to Craig Bachman (Sunroad), notifying him that the project was determined a presumed airspace hazard. (2006-AWP-1638-OE)
- On May 31, 2006, Maxim Crane Works submitted to FAA (form 7460-1) for an aeronautical study for a 360-foot temporary construction crane for the project scheduled 6/8/2006 to 9/11/2006 (2006-AWP-2795-OE).
- On June 13, the FAA issued a "presumed hazard" determination to Maxim Crane Works for 330-foot temporary construction crane for the project (2006-AWP-2795-OE).
- On June 16, 2006, Maxim Crane Works submitted to the FAA for an aeronautical study (form 7460-1) for 160-foot crane construction scheduled 6/19/2006 to 9/18/2006.
- On June 19, 2006, Tait Galloway (City) contacted Karen McDonnell (FAA) after receiving information that Karen McDonnell wanted to discuss the Centrum project with the City. Karen McDonnell informed Tait Galloway of the FAA

presumed hazard determination letter dated April 24, 2004 (2006-AWP-1638-OE).

- On June 19, 2006, Tait Galloway (City) informed Gary Halbert (City) and Kelly Broughton (City) that the FAA had significant concerns about the height of this project. He was told it was penetrating the Part 77 and TERP airspace surfaces by approximately 20 ft (it is 180 ft where at 160 ft it would not be a hazard).
- On June 20, 2006, Tait Galloway (City) informed John Cruz (City) of the FAA's concerns about the height of this project.
- On June 20, 2006, Karen McDonnell (FAA) e-mailed Craig Bachman (Sunroad) to inform him that the FAA will issue a Hazard Determination after the 60 days from the date of the April 24, 2006 presumed hazard determination letter. The e-mail also explained that Sunroad could contact the FAA to discuss the presumed hazard during the 60-day period.
- On June 20, 2006, FAA issued "no hazard" determination to Maxim Crane Works for the 160-foot crane (2006-AWP-3513-OE)
- On June 22, 2006, Berne Hart (Sunroad Attorney) mailed Tom Coleman (Maxim Crane Works) with an opinion that the FAA has no authority to control land use or to prevent construction of structures near an airport.
- On June 22, 2006, Sunroad submitted the project to the FAA for an aviation study (2006-AWP-3876-OE) at 160 ft.
- On June 22, 2006, Maxim Crane Works submitted to the FAA for an aeronautical study (form 7460-1) for 330 foot temporary construction crane scheduled 6/26/2006 to 8/11/2006
- On June 23, 2006, Gary Halbert, David Miller (City Attorney), and Tait Galloway (City) had a meeting to discuss the FAA airspace concerns about the project. David Miller indicated that he would research the legal issues.
- On June 23, 2006, Tait Galloway (City) informed David Miller (City Attorney) that Barbara Lichman (Sunroad Attorney) had informed him that Sunroad was holding construction at 160 ft pending the outcome of a new FAA aeronautical study and that he had asked Ms. Lichman to contact David Miller directly.
- On June 27, 2006, Karen McDonald (FAA) notified Craig Bachman (Sunroad) that the FAA had conducted an aviation study (2006-AWP-3876-OE) and determined the project not to be a hazard at 160 ft.
- On June 27, 2006, FAA issued a "no hazard" determination to Maxim Crane Works for 330-foot construction crane (2006-AWP-3894-OE).

- On June 27, 2006, FAA issued a Notice to Airmen (NOTAM) concerning the 330-foot construction crane and raises circling minimums for Montgomery Field.
- On June 29, 2006, Tait Galloway (City) informed Gary Halbert (City), Keith Greer (City), David Miller (City Attorney) that Barbara Lichman (Sunroad Attorney) had explained to him that Sunroad had received approval from FAA for the project construction crane to exceed 160 ft for construction purposes and that Sunroads will not exceed the 160 ft pending the outcome of a new FAA evaluation. Sunroad was in the process reviewing the data previously used to ensure its accuracy before resubmitting to the FAA.
- On July 7, 2006 the Building Permit for the completion of the building was issued.
- On July 7, 2006, Tait Galloway (City) informed Mike Tussey (City Airports) of the FAA's airspace concerns.
- On July 26, 2006, Sunroad submitted the project to the FAA for an aeronautical study (2006-AWP-4601-OE) at 180 ft. Description of the project states: Additional height required to accommodate planned structure dictated by land availability and location.
- On July 27, 2006, Tait Galloway (City) informed Gary Halbert (City) that Barbara Lichman (Sunroad Attorney) had informed him that the FAA made the same presumed hazard determination and that Sunroad was proceeding at 180 ft as permitted. Tait Galloway also indicated the likelihood that the FAA will issue a Hazard Determination.
- On July 31, 2006, Gary Halbert (City) asked David Miller (City Attorney) for the status of his legal research for options concerning the airspace issue. David Miller informed him that he would start researching it.
- On July 8, 2006, David Miller (City Attorney) informed Kelly Broughton (City) and Tait Galloway (City) regarding his legal theory that the project could be stopped as a result of being a public nuisance.
- On August 11, 2006, Kevin Haggerty (FAA) notified Craig Bachman (Sunroad) that the FAA has conducted an aeronautical study (2006-AWP-4601-OE) and determined the project to be a hazard. The letter included the following: "The sponsor's representative advised the FAA by submission of FAA 7460-2, that the structure had reached its greatest height on the same day as the third filing."
- On August 11, 2006, Keith Greer (City), Tait Galloway (City), and David Miller (City Attorney) met with Tom Story (Sunroad), Barbara Lichman (Sunroad Attorney), and Tom Kamman (Sunroad Aviation consultant) to discuss the

project. David Miller explained that state government addresses airspace hazards as public nuisances and city code addresses avoiding the creation of public nuisances. Barbara Lichman indicated that the FAA may be in process of revising the Part 77 regulations and that Tom Kamman would research if the proposed changes could affect the hazard determination for the other two proposed Centrum towers. David Miller indicated that we would review all applicable codes and regulations and research the development agreement to determine if it addressed structure heights or floor area ratios.

- On August 11, 2006, Tait Galloway (City) e-mailed Gary Halbert (City) and Kelly Broughton (City) to provide a summary of the meeting with the Sunroad representatives. He also asked if the SCR approval for the second Centrum tower could be placed on hold pending the outcome of David Miller's (City Attorney) research. Kelly Broughton (City) gave the John Cruz (City) the authorization to hold the approval of SCR for the second tower.
- On August 23, 2006, Barbara Lichman (Sunroad Attorney) e-mailed Tait Galloway (City) and wrote that based on their research the proposed changes would not affect the future FAA hazard determinations for the other proposed two Centrum towers.
- On August 28, 2006, David Miller (City Attorney) asked Tait Galloway (City) if Airport Land Use Compatibly Plan (ALUCP) required the City to rezone to ensure consistency with the Part 77 surfaces and if so, was the city required to submit projects to the Airport Authority. Tait Galloway indicated that it was his understanding that the consistency determination requirement is for projects within the ALUCP boundaries know as the Airport Influence Area.
- On August 29, 2006, in response to David Miller's questions concerning the applicability of the Airport Land Use Compatibly Plan (ALUCP) policies, Tait Galloway (City) stated that the project is outside of the Montgomery Field ALUCP boundaries. He also mentioned that 1996 Montgomery Field ALUCP did not address airspace protection outside of the ALUCP boundaries, but that amended 2004 ALUCP did address airspace protection beyond the ALUCP boundaries. Tait Galloway recommended that he contact Linda Johnson (Airport Authority) and Amy Gonzalez (Airport Authority Legal Council) to discuss the applicability of the ALUCP.
- On September 5, 2006, Bill Anderson (City) and Tait Galloway (City) met with Tom Story (Sunroad), Barbara Lichman (Sunroad Attorney), and Tom Kamman (Sunroad Aviation consultant) to discuss the Centrum project. Sunroad representatives explained that the FAA has already changed the operation procedures for Montgomery Field because of the first Centrum structure and could do so for the other two proposed structures. Bill Anderson informed the Sunroad representatives that additional discussions with City staff, Caltrans, and FAA would be needed.

- On September 8, 2006, Sunroad provided a letter to the Airport Advisory Committee addressing the airspace protection issues raised by the FAA.
- On September 12, 2006, Tait Galloway (City) provided background information concerning the project to the Airport Advisory Committee. John Serrano (City Attorney) explained to the Committee that he was research the legal issues.
- On September 14, 2006, Jeff Brown (Caltrans) mailed a letter to Sunroad addressing the need for a state permit for the project.
- On September 15, 2006, Tait Galloway (City) informed Kelly Broughton (City) and Bill Anderson (City) that the state Public Utilities Code requires Sunroad to seek a permit from California Department of Transportation (Caltrans), Aeronautics Division prior to building above the height the FAA determined to be a hazard. He also provided them with a letter dated September 14, 2006 from Jeff Brown (Caltrans) to Sunroad.
- On September 18, 2006, Barbara Lichman (Sunroad Attorney) responded to the Caltrans September 14, 2006 letter questioning the requirement for a state permit.
- On September 29, 2006, Jeff Brown (Caltrans) responded to the Barbara Lichman (Sunroad Attorney) September 18, 2006 letter indicating that any additional attempts to delay complying with state public utility code with result in enforcement action by Caltrans.
- On October 3, 2006, Barbara Lichman (Sunroad Attorney) mailed a letter to Mary Frederick (Caltrans) objecting to Jeff Brown's (Caltrans) letters and request for the Caltrans to provide the required permit documents within ten days.
- On October 10, 2006, the Airports Advisory Committee (AAC) held a meeting where they passed two motions regarding the three Sunroad Centrum buildings. One authorized the Chair to send a letter to the City's Development Services Department to express opposition to the additional two Sunroad high-rise buildings proposed in Kearny Mesa on the grounds that the additional height of the buildings is believed to create a hazard to air navigation in the vicinity of Montgomery Field Airport. The second supporting "Caltrans in withholding of a permit to construct a hazard to air navigation within one mile of Montgomery Field."
- On October 12, 2006, John Cruz (City) spoke with Jeff Brown of the Department of Transportation. He asked for a copy of the Development Agreement and Master Plan. John Cruz (City) sent it to him via interoffice mail to Terry Price (Noise Abatement Officer Real Estate Assets - Airport Division), as they were scheduled to have a meeting the following Tuesday (October 17, 2006).

- On October 13, 2006, Jeff Brown (Caltrans) responded to Barbara Lichman (Sunroad Attorney) October 3, 2006 letter by providing the information that Caltrans would need for the state permit and requesting it be provided within ten days.
- On October 16, 2006, on behalf of the City Attorney, Michael Aguirre, David Miller, Deputy City Attorney sent an email to Jim Waring, Deputy Chief Land Use and Economic Development. In this email, the City Attorney “requests that the Development Services Department of the City of San Diego immediately issue a “Stop Work Order” for the above-referenced building, as continued construction is in violation of PUC section 21659 and Federal Aviation Regulation (FAR) Part 77 Obstruction Standards. More importantly, the current height of the building, 180’ poses a risk to human life both in the air and on the road.” Other points in the email:
  - “The building was determined to be a “Hazard to Air Navigation” by the Federal Aviation Administration” on August 11, 2006.
  - “The risk created by the structure places it within a category of “Public Nuisance.”
  - “As a “Public Nuisance”, the City may take immediate actions to abate.”
  - “Following the issuance of the “Stop Work Order”, the City Attorney’s Office requests that a permit revocation hearing be scheduled pursuant to San Diego Municipal Code Sections 121.0314(c)(3) and (4), which allows for the revocation of building permits issued.”
- On October 20, 2006, Tait Galloway (City) provides Kelly Broughton (City) with a copy of the 1996 ALUCP (as know as the Comprehensive Land Use Plan) in which is states: "The Airport Influence Area is determined for those areas adjacent to the airports which could be impacted by noise levels exceeding the California State Noise Standards or where height restrictions would be needed to prevent obstructions to navigable airspace as outlined in Federal Aviation Administration regulations."
- On October 24, 2006, Barbara Lichman (Sunroad Attorney) responded to the Jeff Brown (Caltrans) October 13, 2006 letter by legally objecting to permit requirements and criteria used by Caltrans, indicated that Caltrans has not compiled with the California Administrative Procedures Act, and would not subject Sunroad to Caltrans unfettered discretion.
- On October 27, 2006, Joe Harris (City) issues a Stop Work Order for the top 17 ft of the structure.
- On November 14, 2006, Jim Waring (City) addressed the project at the Airport Advisory Committee.