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## Developer takes high-rise fight to Washington

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**By David Hasemyer**  
UNION-TRIBUNE STAFF WRITER

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Armed with high-powered consultants and an aviation lawyer, the developer of a Kearny Mesa high-rise trooped off to Washington last week to convince the FAA that its 12-story building isn't a hazard to airplanes landing at Montgomery Field.

The developer, Sunroad Enterprises, offered to pay for and install a sophisticated electronic navigation system that would allow pilots making bad-weather landings to fly straight onto the runway instead of circling the building, as is now required.

But the Federal Aviation Administration refused to budge.

"The project is a hazard to air navigation, period," FAA spokesman Ian Gregor said. "Simply put, there is no short-term way of removing the hazard determination.

"The only reason that everyone's in this position is that a developer decided to ignore the mandatory review process and build a tower that is a hazard to air navigation."

The FAA is considering asking the U.S. Justice Department to investigate whether Sunroad violated federal law by failing to properly notify the agency about the building. The 180-foot-tall office tower is 20 feet above the limit set for structures so close to Montgomery Field.

Gregor said that even if Sunroad's plan could solve the problem, it's so complex that it would take a year or more to implement. In the meantime, he said, the building will



HOWARD LIPIN / Union-Tribune  
The FAA has declared this 12-story building under construction near Montgomery Field a hazard.

### OVERVIEW

**Background:** A 12-story office building under construction in Kearny Mesa has been declared a hazard by the Federal Aviation Administration. The agency reached that conclusion because airplanes landing at nearby Montgomery Field in bad weather fly within 400 feet of the building.

**What's happening:** The developer, Sunroad Enterprises, has proposed paying for and installing a new navigation system at the airport so

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continue to be classified as a hazard to small planes trying to land in bad weather.

The office tower already is framed, but work on the top two floors has been suspended since October on orders from the city of San Diego.

Sunroad said its consultants will prepare a more detailed proposal for the FAA, taking into account the agency's concerns.

pilots could fly straight onto the runway instead of circling the building.

**What's next:** The FAA has refused to lift the hazard designation. Sunroad has hired aviation consultants to develop a comprehensive plan to show the FAA how the new system would solve concerns over the building.

“We want to have a building that is safe for the community and a building that is an economic benefit to the community,” said Tom Story, the company's vice president of development.

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Gregor said Sunroad's plan could interfere with other air-traffic patterns around the airport. He likened shifts in the use of airspace to a Rubik's Cube, where moving one piece affects many other pieces.

“Airspace changes are monstrously complex endeavors,” Gregor said.

Disputes between the FAA and developers aren't unusual, but the vast majority are resolved to the FAA's satisfaction. The agency's opinion carries great weight, even though the agency doesn't have the power to stop projects that aren't on airport property.

So far this year, the FAA has issued hazard designations in 6,000 projects throughout the United States. All but 30 of the developers either abandoned their plans or modified them to conform to FAA safety standards. Of the 30 that were appealed, the hazard designation was removed for just three.

Gregor said Sunroad is the only developer that went ahead and built a structure the FAA had deemed a hazard.

### Two sides to every story

The FAA contends that Sunroad broke ground on the \$45 million office tower in the spring before it filed the proper papers notifying the agency of the project. The developer disputes this, saying the FAA knew about the project for more than a year.

An FAA document shows the agency told Sunroad in April that the building would be classified as a hazard.

Sunroad agreed to reduce the height to the accepted limit, 160 feet. But in July, the company told the FAA it had returned to the original plan and framed the building at 180 feet.

Company executives said they went ahead with the plan because their aviation safety consultants said the building wouldn't pose a hazard. Sunroad, which has been doing business in San Diego County since 1977, also has cleared ground for two even taller buildings at the site: One will be 200 feet, the other 220 feet.

Removing the top two floors of the current building isn't feasible, Sunroad officials say. The entire building would have to be torn down because of design issues, and they refuse to do that.

The office tower, near the intersection of state Route 163 and Clairemont Mesa Boulevard, is about a mile northwest of the airport, at the edge of the landing pattern used in bad weather. Those landings account for about 10 percent of the touchdowns at Montgomery Field, one of the county's busiest municipal airports, with 245,086 takeoffs and landings last year.

The bad-weather approach takes planes within 400 feet of the building, so close that some pilots say they'll be able to see the office workers inside.

"It's going to be a matter of when there will be an accident, not if there will be an accident," said pilot Jon Real, who flies in and out of Montgomery Field two or three times a week on business.

### **City, state involvement**

While the dispute rages between Sunroad and the FAA, the city of San Diego and the state Department of Transportation also have become involved.

Sunroad obtained all the necessary city permits before beginning construction. City officials have said they weren't required to consider the building's effect on air traffic because the structure was outside the airport's jurisdiction.

City building officials, who originally said the office tower wasn't a hazard, ordered Sunroad in October to stop work on the top two floors.

"The city will not remove the stop-work order until the FAA removes the hazard designation," said Marcela Escobar-Eck, director of the city's Development Services Department.

Caltrans, whose lawyers have been reviewing the case for more than a month, appears to be the agency with the most authority over the building. It says Sunroad failed to obtain a state permit needed to build a high-rise that exceeds FAA obstruction standards.

Since September, Caltrans and the developer have engaged in a testy exchange of letters.

The state agency has told Sunroad it's illegal to continue construction without a permit. It said Sunroad will be liable for any accidents and accused the developer of "obfuscating" the issues.

In response, Sunroad said Caltrans had overstepped its jurisdiction and singled out the developer by imposing onerous requirements. The company argues that the state's position is moot because the building is already up.

Story, the Sunroad vice president, said the new navigation system would calm jittery pilots and relieve any anxiety future tenants of the office building might have about planes buzzing so close to the building.

It also would resolve questions about the safety of two taller buildings that Sunroad has on the drawing board for the property, said Story, who was former Mayor Dick Murphy's chief of staff before Murphy resigned in 2005 and also worked in the Development Services Department doing environmental planning.

The city's Airports Advisory Committee, which offers suggestions to the city about airport issues, has passed a resolution opposing Sunroad's project. But Buzz Gibbs, a pilot and a member of the committee, sees the new plan as "a very reasonable solution."

“It seems to me that is a responsible proposal from the developer and one that will make Montgomery Field safer,” Gibbs said.

Rick Beach, who is also a pilot and a committee member, remains unswayed. Sunroad's offer of a new electronic guidance system is a “constructive suggestion,” he said, but he doesn't think it would mitigate every situation that could take planes close to the building.

“There will be missed approaches and other times when aircraft will be over the building that cannot be accounted for by this system,” Beach said.

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