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Sunroad agrees to drop office tower to 160 feet

But concession comes with a few conditions

By Jeff McDonald
and David Hasemyer
UNION-TRIBUNE STAFF WRITERS

July 11, 2007

The company that defied federal authorities and built a Kearny Mesa office tower 20 feet higher than regulations allowed agreed for the first time yesterday to reduce the building to 160 feet.

In a two-page letter faxed to City Hall, Sunroad Enterprises said the top of the office tower will be demolished by mid-October. Mayor Jerry Sanders had demanded the work be completed by Aug. 25, but his spokesman called the new timetable reasonable.

[Graphic: Portion of building that exceeds 160 feet](#)

Reconstruction won't be completed until at least April, the company estimated. The building was supposed to have been ready to lease this summer.

Sunroad is suing San Diego for \$40 million to recover the cost of lowering the building and any income it may lose because of delays and reduced floor space.

For two weeks, Sunroad had said it would comply with Federal Aviation Administration height limits. But the company resisted promising that the tower would not exceed 160 feet, the maximum allowed by the FAA. Rather, Sunroad lawyers said it would be altered "to an FAA-approved height."

Sanders set yesterday as the deadline for Sunroad to consent to lowering the building or face a new order empowering the city to perform the demolition work itself.

But Sunroad's proposal came with some caveats that city officials rejected.

For starters, Sunroad wants permission to finish interior work on the lower floors before the demolition is completed – a condition that conceivably could allow the company to lease office space during the renovation.

Sunroad also sought an immediate lifting of the mayor's stop-work order and an expedited temporary certificate of occupancy. It wants the city to approve the timetable and all conditions by tomorrow.

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None of those proposals is acceptable to Sanders, who waited eight months to halt construction after learning that the 180-foot building violated federal safety standards and had been declared illegal by state officials.

Sanders toughened his stance considerably in recent weeks. "It's trust but verify," mayoral spokesman Fred Sainz said yesterday. "This has way too much open-endedness. We don't want them having unfettered and unmonitored access to the building."

City Attorney Michael Aguirre, who sued Sunroad in December to get the office building height reduced, also dismissed some of the conditions proposed by the developer. But he applauded Sunroad's commitment to limit the tower to 160 feet.

"I want to emphasize the part of the proposal that is acceptable," he said. "The other, we just treat as something they're asking the city to agree with."

The 12-story building lies within a mile of Montgomery Field, one of the busiest general-aviation airports in the country. The FAA notified Sunroad in April 2006 that the tower was a hazard to planes landing in bad weather.

Sunroad officials would not comment on their decisions yesterday. Their letter to the city is labeled as privileged communication between the city and the company, but city officials disagreed and both the Mayor's Office and the city attorney released the documents.

Owned by Aaron Feldman of La Jolla, Sunroad Enterprises and its related companies have extensive holdings in San Diego County. Among other properties, Feldman owns car dealerships, a golf and country club and hundreds of acres of undeveloped land.

A multimillionaire who held a fundraiser for Sanders in 2005, Feldman also operates a marina on San Diego Bay and has plans for a 600-room hotel and resort on Harbor Island.

In his only media interview to date, Feldman conceded last week that he pushed ahead with construction even after being warned the building would be a safety hazard.

The developer said he proceeded because officials at City Hall told him they would resolve the FAA concerns. Feldman refused to name those officials, citing the lawsuit pending against the city.

Also yesterday, Sanders put off releasing results of an internal investigation he ordered in May to determine how the city happened to issue a permit for the controversial building.

City officials were warned more than a year ago that the building plans violated FAA restrictions, although the mayor said he only learned of the problem in October.

Last week, Sainz said the city investigation was finished and results would be announced yesterday. On Monday, he said the findings would be released today. Yesterday the date was pushed into next week.

According to Sainz, the internal investigation has been turned over to Jo Anne SawyerKnoll, Sanders' deputy chief operating officer in charge of ethics and integrity.

SawyerKnoll succeeds Ronne Froman, Sanders' former chief operating officer. Froman resigned last month but she had pledged to complete the Sunroad investigation even after leaving City Hall. Froman is expected to

attend the mayor's news conference announcing the investigation findings next Thursday.

Sainz said SawyerKnoll intends to interview two more witnesses before signing off on the investigation.

He said he does not know the identities of the witnesses, but he insisted the delay in announcing the results has nothing to do with Feldman's claim that city officials told him to keep building the tower despite the FAA concerns.

“These allegations are being made by a man with a position to defend, and he makes them without substantiation,” said Sainz, who nonetheless confirmed that SawyerKnoll will address Feldman's claim.

Sunroad executives and lawyers working for the city of San Diego continued their court-approved mediation yesterday.

Early into the session, the attorneys for both sides left and the discussions continued between city planning officials and Sunroad engineers and experts.

“As we discussed this morning, meeting this ambitious and aggressive schedule will require continuous and close cooperation of the city and all relevant regulatory agencies,” Sunroad told the city yesterday.

Portion of Sunroad s building
in Kearny Mesa that
exceeds 160 feet.



SOURCE: Sunroad Enterprises

Photo by JOHN R. McCUTCHEN / Union-Tribune

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By **theantispanos** on 07/11/2007

Anybody see the word mediation in there?

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By theantispanos on 07/11/2007

I found it, so yes, it was quick. Sanders, release the information.

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By Rush 2112 on 07/11/2007

I hope Sunroad wins its lawsuit. The arbitrary FAA regulations are totally insane. Why should Sunroad suffer immense financial damage because of a hypothetical public safety issue? So what if the flying coffins are too close. If you fly one of those things, you're on your own regardless of any government considerations.

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By La Playa Heritage on 07/11/2007

We all know whose fault it was approving the 180 foot building. The fault lies with Marcela Escobar-Eck the Director of the Development Services Department (DSD).

http://www.laplayaheritage.com/Sunroad_Investigation_with_Figures.pdf

When Ms. Eck wrote the 2002 changes to the Master Plan to change the zoning to include the option of residential in the commercial/industrial CC-1-3 Zone, she thought she wrote a loophole into the law by changing a subheading on a table. Ms. Eck did not go far enough, there is no technicality and there is no loophole. At no time in 2002 did the City Council agree that the Master Plan and the EIR vested unlimited height and unlimited Floor-Area-Ratio (FAR) for the project, as Ms. Eck and Sunroad claim. Ms. Eck forgot all about the CC-1-3 FAR of 0.50 for Kearny Mesa. According to the Kearny Mesa Community Plan, density is control by the FAR. The FAR of 0.50 creates a de facto height limit. Hopefully, the City of San Diego will not try to make a low-level employee of Ms. Eck's responsible for her five year scheme/plan to increase the value of industrial land adjacent Montgomery Field to benefit her developer friends.

http://www.signonsandiego.com/uniontrib/20070303/news_lz1n3mcmillin.html

This same premeditate writing of a potential loophole is exactly how Ms. Eck gave away the multi-million dollar profits at NTC to McMillin, instead of splitting the profits 50-50 as was promise to the citizens of San Diego. Ms. Eck negotiates in favor of the developer to the detriment of the City of San Diego. Ms. Eck just writes what she wants. She who holds the pen, holds the power.

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