

RESOLUTION NUMBER R-294597

ADOPTED ON FEBRUARY 27, 2001

WHEREAS, EAS Services, Inc., Owner/Permittee, filed an application with the City of San Diego for a permit to construct a three-story, 107-unit, business serving hotel referred to as the Extended Stay America project, located on Murphy Canyon Road between Aero Drive and Balboa Avenue, and legally described as Lot 5, Murphy Canyon Gateway Unit No. 1, Map 11502, in the Kearny Mesa Community Plan area, in the IL-2-1 zone; and

WHEREAS, on February 8, 2001, the Planning Commission of the City of San Diego considered Planned Development/Site Development [PD/SD] Permit No. 40-0164, and pursuant to Resolution No. 3091-PC voted to recommend approval of the permit; and

WHEREAS, the matter was set for public hearing on February 27, 2001, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to PD/SD Permit No. 40-0164:

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

A primary goal of the industrial element of the Kearny Mesa Community Plan is to provide employee amenities and business support uses within the plan area. There is a high concentration of businesses within Kearny Mesa that employ temporary workers and consultants. These businesses have created a demand within the community for business serving hotels. The proposed development meets this demand by providing additional hotel rooms specifically designed for business travelers. This use will contribute to the success of the surrounding business industrial parks.

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

The project proposes to construct a three-story, 107-unit, business serving hotel within the IL-2-1 zone and the Kearny Mesa Community Planning Area under a PD/SD permit. The project is designed to be complementary to the surrounding business and industrial uses by providing hotel rooms for traveling employees which include supplemental telephone and data services, kitchenettes, and on-site laundry facilities. The proposed hotel development will not generate significant tourist traffic because the typical tourist hotel amenities, such as bars, restaurants, and meeting rooms, are not included within the project. The project design includes landscaping as directed by the Land Development Code [LDC] and 143 parking spaces, thirty-nine more spaces than are required by the LDC.

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

The proposed site is governed by the policies and guidelines of the Kearny Mesa Community Plan and the development regulations of the IL-2-1 zone. Business serving hotels may be developed in the IL-2-1 zone under the PD permit process provided that they are permitted by the Community Plan. The proposed development includes a concurrent community plan amendment [CPA] to permit business serving hotels within Kearny Mesa. Once the CPA is approved, the development will comply with the regulations of the LDC.

4. The proposed development, when considered as whole, will be beneficial to the community.

The Kearny Mesa Community Planning Area is primarily developed with industrial, commercial office, and commercial retail uses. Many of these businesses have nationwide offices and employ a number of people who travel to different offices around the country to perform short term tasks. Kearny Mesa currently lacks an adequate number of business serving hotels to provide for these employees. The proposed project fulfills a community need by providing long-term hotel rooms for traveling consultants and employees of businesses within the Kearny Mesa Community Planning Area.

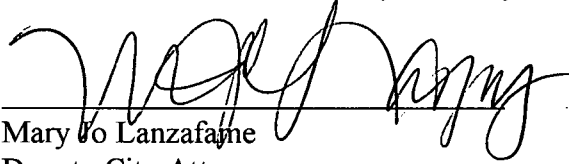
5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

This project does not propose to deviate from the Land Development Code.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Development/Site Development Permit No. 40-0164 is granted to EAS Services, Inc., Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Mary Jo Lanzafame
Deputy City Attorney

MJL:lc
01/17/02
Or.Dept:Clerk
R-2001-1516
Form=permitr.frm
Reviewed by Patricia Grabski

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

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED DEVELOPMENT PERMIT/
SITE DEVELOPMENT PERMIT
NO. 40-0164**

EXTENDED STAY AMERICA

CITY COUNCIL

This Planned Development/Site Development [PD/SD] Permit is granted by the City of San Diego to ESA Services, Inc., Owner/Permittee pursuant to San Diego Municipal Code [SDMC] sections 143.0301 and 143.0401. The site is located on Murphy Canyon Road between Aero Drive and Balboa Avenue in the Kearny Mesa Community Plan area. The project site is legally described as Lot 5, Murphy Canyon Gateway Unit No. 1, Map 11502.

1. Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a three-story, 107-unit hotel described and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated February 27, 2001, on file in the Development Services Department. The facility shall include:

- a. A three-story, 45,720 square foot, 107-room hotel;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. 143 off-street parking spaces; and
- d. Accessory improvements determined by the City Manager 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.

2. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an extension of time has been granted. Any such extension of time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

3. 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 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.

4. 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 City Manager.

5. This permit is a covenant running with the subject property and shall be binding upon the 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.

6. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

7. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 *et seq.*).

8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable Building, Fire, Mechanical and Plumbing Codes and state law requiring access for disabled people may be required.

9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated February 27, 2001, on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment to this permit have been granted.

10. 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 discretionary permit. It is the intent of the City that the holder of this Permit is required to comply with each and every condition in order to be afforded special rights, which the holder of the Permit is entitled as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

11. 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" conditions(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 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Prior to the issuance of the first grading permit, the City Engineer shall verify that appropriate post-construction Best Management Practices (BMPs) will be incorporated into the project design, as depicted in Exhibit "A," Preliminary Grading Plan, dated February 27, 2001, on file in the Development Services Department, including the use of vegetative controls in the form of a grassed swale.

13. Prior to the issuance of any building permits, the applicant shall prepare a Waste Management Plan to the satisfaction of the Environmental Analysis Services.

MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP) ANALYSIS:

14. Lighting should be directed away from the Multiple Habitat Plan Area [MHPA] and shielded if necessary.

15. Drainage should be directed away from the MHPA, or if not possible, must not drain directly into the MHPA, but instead into sedimentation basins, grassy swales or mechanical trapping devices.

16. No invasive non-native plant species shall be planted in or adjacent to the MHPA. Delete non-native plant species (e.g., Myoporum, Metrosideros, Tristania) from the Landscape Concept Plan [LCP] for areas adjacent to the MHPA.

17. No grading is allowed within the MHPA. All manufactured slopes and Zone 1 Brush Management must be included within the development footprint and outside the MHPA.

18. Access to the MHPA, if any, should be directed to minimize impacts and reduce impacts associated with domestic pet predation.

19. Due to the site's proximity to coastal sage scrub within the MHPA, noise impacts related to construction will need to be avoided, if possible, during the breeding season of the California gnatcatcher (3/1-8/15). If construction is proposed during the breeding season, a survey will be required. If no gnatcatchers are identified within the MHPA, no additional measures will be required. If present, measures to minimize noise impacts will be required and should include temporary noise walls or berms. If a survey is not conducted and construction is proposed during the breeding season, presence of gnatcatchers would be assumed and a temporary wall or berm would be required.

20. Noise levels from construction activities during the California gnatcatcher breeding season should not exceed 60 dBA hourly LEQ at the edge of the MHPA or the ambient noise level if noise levels already exceed 60 dBA hourly LEQ.

ENGINEERING REQUIREMENTS:

21. Prior to the issuance of any building permits, the applicant shall obtain an engineering permit from the City Engineer for the grading proposed with this project. All grading shall

conform to requirements in accordance with Grading Sections of the SDMC in a manner satisfactory to the City Engineer.

22. The drainage system as proposed on the approved plans is subject to approval of the City Engineer.

23. Prior to the issuance of any building permits, the applicant shall enter into a Shared Access Agreement with the adjacent property owner (Lot 6, Map 11502) for the common 30-foot wide driveway serving both properties satisfactory to the City Engineer.

24. Prior to building occupancy, the applicant shall conform to SDMC section 62.0203, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

25. Prior to issuance of any grading permit, the "As Graded Geotechnical Report" prepared by Geocon Inc., shall be submitted to Land Development Review Geology for review and approval.

PLANNING/DESIGN REQUIREMENTS:

26. 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 condition of approval of this permit. Where there is a conflict between a condition (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) of this permit establishes a provision, which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

27. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the 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.

28. A topographical survey conforming to the provisions of SDMC section 101.0216 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 permittee.

29. Any future requested amendment to this permit should 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.

30. No change, modification or alteration shall be made to the project unless appropriate application or amendment to this Permit has been granted by the City.

31. All signage associated with this development shall be consistent with the approved project sign plan (Exhibit "A," dated February 27, 2001, on file in the Development Services Department).

32. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

33. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

34. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

35. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoors storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and no merchandise, material or equipment shall be stored higher than any adjacent wall.

36. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or 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 structure whose top and sides may include grillwork, louvers and latticework.

37. No merchandise, material or equipment shall be stored on the roof of any building.

38. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," dated February 27, 2001, on file in the Development Services Department.

LANDSCAPE REQUIREMENTS:

39. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan, dated February 27, 2001, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.

40. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated February 27, 2001, on file in the Development Services Department.

41. Prior to issuance of any engineering permits for grading, construction documents for slope planting or revegetation and hydroseeding of all disturbed land including irrigation shall be submitted in accordance with the City of San Diego's Landscape Standards, and to the satisfaction of the City Manager. All plans shall be in substantial conformance to Site Development/Planned Development Permit No. 40-0164 (including Environmental conditions) and Exhibit "A," dated February 27, 2001, on file in the Development Services Department. Grading plans shall include station point identifiers for each street tree location in the right-of-way. Each street tree location must take into account a 40 square foot area around each tree which is unencumbered by utilities. Installation of slope planting and erosion control shall be initiated by permittee as soon as the grading has been accomplished. Location of street trees shall be identified and reserved during grading activities and on all site plans prepared for subsequent building permit applications, with

actual installation taking place prior to issuance of a certificate of occupancy for a specific building permit.

42. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit shall be obtained for the installation, establishment and on-going maintenance of all street trees.

43. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

44. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements consistent with the City of San Diego's Landscape Standards unless long-term maintenance of street trees and right-of-way landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

45. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT REQUIREMENTS:

46. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Landscape Concept Plan and Brush Management Plan, dated February 27, 2001, on file in the Development Services Department.

- a. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zone on the property in substantial conformance with Exhibit "A," dated February 27, 2001, on file in the Development Services Department.
- b. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A," dated February 27, 2001, on file in the Development Services Department, and shall comply with the Uniform Fire Code (SDMC § 55.0889.0201), the Landscape Standards and the SDMC section 142.0412 (Ordinance No. O-18451).
- b. The Brush Management Program shall consist of one zone consistent with the Brush Management regulations of the SDMC section 142.0412 as follows: Legal Description: Lot 5 Murphy Canyon Gateway Unit No. 1, Map No. 11502, located east of I-805. Zone One depth shall be: 60 feet.
- c. The construction documents shall conform to the Architectural features as described in SDMC section 142.0412(d).

- d. Within Zone One combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) are not permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall's and the City Manager's approval.
- e. The following shall be provided on the Brush Management Construction Documents: "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."
- f. In Zone One, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section.

47. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.

48. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

TRANSPORTATION PLANNING REQUIREMENTS:

49. Prior to the issuance of any building permits the applicant shall submit for review a Mutual Access Agreement for the proposed shared driveway shown on Site Plan.

INFORMATION ONLY

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

APPROVED by the Council of the City of San Diego on February 27, 2001, by Resolution No. R-294597.

12/12/01

L:\LANZAFAM\Resos\Reso2001\R-294597_PD&SD_ExtendedStay.wpd

AUTHENTICATED BY THE CITY MANAGER

By _____

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

ESA SERVICES, INC.
Owner/Permittee

By _____

By _____

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

12/12/01

L:\LANZAFAM\Resos\Reso2001\R-294597_PD&SD_ExtendedStay.wpd