

RESOLUTION NUMBER R-291879

ADOPTED ON JUNE 29, 1999

WHEREAS, Westbrook Torrey Hills, LP, a Delaware Limited Partnership, Owner, and H.E.V. Torrey Hills Limited, a Colorado Limited Partnership, Permittee, filed an application with The City of San Diego for a Planned Commercial Development for the development of the Holtze Executive Village, located at the southeast corner of Vista Sorrento Parkway and Ocean Bluff Avenue, and legally described as Parcels 9 and 10 of Parcel Map 17894, filed August 8, 1997, in the Sorrento Hills Community Plan area, in the M-1A zone (proposed CV zone); and

WHEREAS, the project shall consist of a four-story 296 room executive extended stay hotel of approximately 166,649 square feet within buildings one through five, including no greater than 10,000 square feet of back-of-house service uses; a clubhouse of approximately 9,480 square feet in building six; approximately 5,000 square feet of retail support commercial services within the ground floor of building four; landscaping; off-street parking facilities; a motor court entry; a two-way driveway with a raised landscaped median; pool; retaining walls; landscaping; and minor improvements in the public right-of-way; and

WHEREAS, on June 17, 1999, the Planning Commission of The City of San Diego considered Planned Commercial Development [PCD] Permit No. 98-0768 (amending Planned Industrial Development/Planned Residential Development/Hillside Review/Coastal Development Permit [PID/PRD/HR/CDP] Permit No. 95-0554) and pursuant to Resolution No. 2807-PC, voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on June 29, 1999, 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 this Council adopts the following findings with respect to PCD Permit No. 98-0768 (amending PID/PRD/HR/CDP Permit No. 95-0554):

PLANNED COMMERCIAL DEVELOPMENT

A. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted community plan.

The project will diversify the mix of land uses in the community plan area by providing an executive village hotel and retail commercial development in close proximity to the commercial office, manufacturing industrial park, and residential projects developing within the area. As proposed, the development includes 396 rooms, a clubhouse with swimming pool, 5,000 square feet of retail commercial space, surface and an underground parking garage, and landscaping.

The proposed hotel and retail development is consistent with and will not result in any adverse impacts associated with the transportation improvements under construction within the community plan area as required by the Torrey Hills project, of which the Holtze Executive Village will be a part.

The proposed project is consistent with and will not adversely affect the Progress Guide and General Plan and the Sorrento Hills Community Plan which identifies a hotel use and commercial retail use is appropriate at this site. There are no other currently planned hotel or commercial retail developments within the Torrey Hills project or the Sorrento Hills Community Plan area. Development of this site with the proposed hotel and commercial retail uses will benefit the community by providing complimentary uses to the adjacent and proposed land uses. Land use conflicts will not result by the development and use of the site as proposed by the project design.

B. The proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other properties in the vicinity.

The permit controlling the development and continued use of the hotel and commercial retail development proposed for this site contains conditions requiring compliance with the San Diego Municipal Code and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area.

Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area. Conditions of approval address lighting, the generation of noise, the appearance of landscaping, and placement of buildings. The development of the site specifically addresses the continued operation of the site. The regulations of all the Uniform Building, Fire, Plumbing, Electrical, Mechanical, and Municipal Codes governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity.


C. The proposed use will fully comply with the relevant regulations of the San Diego Municipal Code in effect for this site.

Specific conditions of approval require continued compliance with all relevant regulations of the Municipal Code in effect for this site and have been written as such into the permit. Development of the project is consistent with the purpose and intent of the Planned Commercial Development ordinance and the standards found therein. Concept plans for the project identify all other development criteria in effect for the site. No variances or deviations from the current City policies or regulations are necessary to grant the permit. All relevant regulations shall be complied with at all times for the life of the project.

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 PCD Permit No. 98-0768 (amending PID/PRD/HR/CDP Permit No. 95-0554) is granted to Westbrook Torrey Hills, LP, a Delaware Limited Partnership, Owner, and H.E.V. Torrey Hills Limited, a Colorado Limited Partnership, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

RAD:lc
07/22/99
Or.Dept:Clerk
R-2000-141
Form=permitr.frm
Reviewed by John Fisher

**RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES**

**AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Planned Commercial Development Permit No. 98-0768
HOLTZE EXECUTIVE VILLAGE
Amendment to PID/PRD/HR/CDP No. 95-0554
City Council

This Permit, amending PID/PRD/HR/CDP No. 95-0554, is granted by the Council of The City of San Diego to Westbrook Torrey Hills, L.P., a Delaware Limited Partnership, Owner, and H.E.V. Torrey Hills Limited, a Colorado Limited Partnership, Permittee, pursuant to San Diego Municipal Code [SDMC] section 101.0910. The 3.7 acre site is located at the southeast corner of Vista Sorrento Parkway and Ocean Bluff Avenue in the Commercial Visitor zone of the Sorrento Hills Community Plan. The project site is legally described as Parcels 9 and 10 of Parcel Map No. 17894, filed August 8, 1997.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to develop and construct a four story 296 room executive village hotel; 5,000 square feet of retail support commercial services; on grade and underground parking; retaining walls; minor improvements in the public right-of-way; clubhouse; pool; and landscaping described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated June 29, 1999 [Exhibit "A"], on file in the Office of Planning and Development Review. The facility shall include:

- a. A four story 296 room executive village hotel of approximately 166,649 square feet within buildings one through five, including approximately 3,800 square feet of back of house service uses;
- b. A clubhouse no greater than 10,000 square feet in building six;
- c. Approximately 5,000 square feet of retail support commercial services within the ground floor of building four;
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking facilities;
- f. A motor court entry, two way driveway with a raised landscaped median, pool, retaining walls, and landscaping;
- g. Along Vista Sorrento Parkway, two single-sided monument signs are allowed at a forty-five degree angle to the public right-of-way. Sign copy shall be on

one side only and the other side shall be without copy. Along Ocean Bluff Avenue, only one two-sided sign shall be allowed. In all other respects, all signs shall be consistent with the Torrey Hills Development and Design Guidelines.

- h. 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 San Diego Municipal Code in effect for this site.
1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the San Diego Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
 2. 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 Planning and Development Review Department; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
 3. 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.
 4. 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.
 5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
 6. 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 Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)
 7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee 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.

8. 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 June 29, 1999, on file in the Office of Planning and Development Review. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

9. 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 be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining 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.

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" condition(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 new 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.

10. To ensure that site development would avoid significant environmental impacts, a mitigation monitoring and reporting program is required. Compliance with the mitigation measures is the responsibility of the Owner/Permittee. The basis for the mitigation monitoring and reporting program and the mitigation measures are described below:

Paleontological Resources

- a. Prior to issuance of any building and/or grading permit, the Owner/Permittee shall provide verification that a qualified paleontologist and/or paleontological monitor have been retained to implement the monitoring program. Verification shall be in the form of a letter from the Owner/Permittee to the Environmental Review Manager of LDR of the Planning and Development Review Department. A qualified paleontologist is defined as an individual with a PhD or MS degree in paleontology or geology and who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits. A paleontological monitor may be retained to perform the on-site monitoring in place of the qualified paleontologist. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the direction of a qualified paleontologist.

All persons involved in the paleontological monitoring of the project shall be approved by EAS at least thirty days prior to the preconstruction meeting.

- b. The qualified paleontologist shall attend any preconstruction meetings to discuss grading plans with the grading and excavation contractor. The requirement for paleontological monitoring shall be noted on the grading plans.
 - c. The Paleontologist or paleontological monitor shall be on-site full-time during original cutting of previously undisturbed sediments of the Ardath Shale to perform periodic inspections of excavations and, if necessary, to salvage exposed fossils. The frequency of inspections will depend upon the rate of excavation, the materials excavated and the abundance of fossils.
 - d. In the event that well-preserved fossils are encountered, the paleontologist shall have the authority to divert, direct or temporarily halt grading activities in the area of discovery to allow evaluation and recovery of exposed fossils. At the time of discovery, the paleontologist shall immediately notify EAS staff of such finding. EAS shall approve salvaging procedures to be performed before construction activities are allowed to resume.
 - e. All collected fossil remains shall be cleaned, sorted, repaired and cataloged following standard professional procedures. The collection be donated to a scientific institution with a research interest in the materials (such as the San Diego Natural History Museum).
 - f. Prior to the issuance of building permits, a monitoring results report with appropriate graphics summarizing the results (even if negative), analyzes, and conclusions of the above monitoring program shall be prepared and submitted to EAS within three months following the termination of the paleontological monitoring program. Any discovered fossil sites shall be recorded at the San Diego Natural History Museum.
 - g. The above mitigation monitoring and reporting program will require a \$450 deposit to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.
11. The drainage system proposed for this project, as shown on the approved plans, is subject to approval by the City Engineer.
12. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a grading permit from the City Engineer for the grading proposed for this project. All grading shall conform to requirements in accordance with the San Diego Municipal Code, in a manner satisfactory to the City Engineer.
13. Prior to the issuance of any grading permit from the City Engineer, the geotechnical consultant must review and sign the grading plans as part of the plan review and grading permit issuance process. A Final As-Built Report is required within fifteen days of completion of grading operations.

14. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the installation of standard driveways on Ocean Bluff Avenue and Vista Sorrento Parkway, satisfactory to the City Engineer.

15. Prior to the issuance of any construction permits (grading, building or public improvement) the Owner/Permittee shall process a certificate of correction to address the necessary revestment of access rights for the access along on Vista Sorrento Parkway, satisfactory to the City Engineer.

16. Prior to the issuance of any building permits, the Owner/Permittee shall enter into an encroachment removal agreement for the turf block pavers in the public right-of-way of Ocean Bluff Avenue, satisfactory to the City Engineer.

17. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two fire hydrants or thirty dwelling units are located on a dead-end public water main, then the Owner/Permittee shall install a looped water system.

18. The Owner/Permittee shall design all proposed public water and sewer facilities to the most current edition of the "City of San Diego Water & Sewer Design Guide." Proposed facilities that do not meet the current standards shall be private or redesigned.

19. The Owner/Permittee shall grant adequate water, sewer, and/or access easements, including vehicular access to each appurtenance (meters, blow offs, air valves, manholes, etc.), for all public water and sewer facilities not located within public rights-of-way, satisfactory to the Water and Metropolitan Wastewater Departments' Managers. Vehicular access roadbeds shall be a minimum of twenty feet wide and surfaced with suitable approved material satisfactory to the appropriate Department Manager. Minimum easement widths: water mains with services or fire hydrants shall be twenty-four feet in width; sewer mains with manholes shall be twenty feet in width. The easements shall be located within single lots. No structures or trees shall be installed in or over any easement prior to the applicant obtaining an encroachment removal agreement. No trees, shrubs, or structures of any kind shall be installed in or over any access easement.

20. The Owner/Permittee shall provide CC&Rs for the operation and maintenance of on-site private water and sewer systems that serve more than one lot. Also, provide private easements for the private mains.

21. Providing water and sewer facilities for this development is dependent upon prior construction of certain water and sewer facilities in previously approved Tentative Map No. 95-0554 in this area. If these facilities have not been constructed when required for this development, then the construction of certain portions of these previously approved water and sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

22. No fewer than 298 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated June 29, 1999, on file in the Office of Planning and Development Review. Parking

spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

23. 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.

24. 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.

25. A topographical survey conforming to the Municipal Code 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 regulations of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

26. Any future requested amendment to this permit shall 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.

27. All signage associated with this development shall be consistent with sign criteria established by the Torrey Hills Development and Design Guidelines.

28. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Planning and Development Review Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of fifty feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the planned commercial development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to

establish conformance with the conditions of this permit during the night inspection. Night inspections may be required additional fees as determined by the Planning and Development Review Manager.

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

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

31. Outdoor 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, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

32. 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 architecturally integrated structure whose top and sides may include grillwork, louvers and latticework.

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

34. 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."

35. Prior to issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated June 29, 1999, on file in the Office of Planning and Development Review. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

36. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

37. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Owner/Permittee, or subsequent Owner

shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Landscape Technical Manual.

38. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Owner/Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

39. All retail commercial uses proposed as part of the project shall remain accessible to the general public, as well as hotel guests.

40. Prior to the issuance of any occupancy permit, the Owner/Permittee shall install a ten-foot wide and forty-foot long concrete pad in the public right-of-way for a future bus stop. All bus stop signs and the shelter shall be provided by the Metropolitan Transit Development Board. The northern edge of the concrete pad shall begin at the point of the curb return along Vista Sorrento Parkway at the southeast corner of Vista Sorrento Parkway and Ocean Bluff Avenue and extend forty feet south parallel to the Vista Sorrento Parkway.

APPROVED by the Council of The City of San Diego on June 29, 1999, by Resolution No. R-291879.

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.

Westbrook Torrey Hills, L.P.
a Delaware Limited Partnership
Owner

By _____

H.E.V. Torrey Hills Limited,
a Colorado Limited Partnership
Permittee

By _____

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

7/22/99

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