

CALIFORNIA COASTAL COMMISSION

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**W7a**

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-21-0081

Applicant: 210 Montreal, LLC

Agent: Tony Russo

Location: 210 E. Montreal Street, Playa Del Rey, City of Los Angeles, Los Angeles County (APN: 4116-013-017)

Project Description: Construction of a three-story, 4,468 sq. ft. single-family residence with a 1,168 sq. ft. basement, attached three-car garage, retaining walls, approximately 5,600 cu. yd. of grading, and a caisson beam foundation on a 6,226 sq. ft. vacant lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to construct a 45-ft. tall, four-story, 4,468 sq. ft. single-family residence with an attached four car garage and two uncovered guest parking spaces on a vacant lot located on the northwest slope of an inland bluff. The project includes approximately 5,600 cu. yd. of grading, which would be exported to a site outside of the Coastal Zone. Thirty-five shoring caissons would be used to create a caisson grade beam foundation for the residence. This proposed foundation is the minimum necessary to support the residence. The project site is zoned R-1, which permits the development of single-family residences. The project site is surrounded by single-family residences

ranging in size from 1,400 sq. ft. to 4,900 sq. ft. The Playa Del Rey segment of Los Angeles does not have a certified Local Coastal Program (LCP); therefore, the Chapter 3 Coastal Act Policies constitute the standard of review for this project.

The primary issue raised by this project involves development in an inherently hazardous area. The Commission has typically required that new development be designed in a manner that assures the stability of the proposed development itself and not significantly affect geologic hazards, such as landslides or erosion, of the site or surrounding area, while also avoiding the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed residence, which is located on a northwest-facing slope on an inland bluff, has been designed with a 35-caisson beam foundation in order to establish slope stability on a site that contains uncertified fill. The applicant notes that the 35 caissons are the minimum amount necessary to support the proposed residence. The project plans indicate that no yards or accessory structures would be constructed in conjunction with the single-family residence. Therefore, the caisson beam foundation would only serve to protect the single-family residence.

Based on the geotechnical findings and City's Soils Approval report, the proposed project will not cause the subject site and surrounding area to become unsafe from geologic instability. The proposed development is considered feasible from a geotechnical engineering standpoint, provided the applicant follow the recommendations of the geotechnical reports and the conditions of the Los Angeles Department of Building and Safety (LADBS). **Special Condition 1** requires conformance with the approved final plans and with geotechnical recommendations established by the applicant's geotechnical engineers and conditions required by LADBS approval letter. **Special Condition 2** prohibits installation of additional bluff protective device(s) in the future and requires the applicant to remove any structures that have been determined, by a final order, to be permanently unsafe for occupancy or use due to geologic hazards and that there are no measures that could make the structures suitable for habitation or use without the use of protective devices. **Special Condition 5** requires the applicant to expressly waive any potential claim of liability against the Commission for any damage or economic harm suffered as a result of the applicant's decision to develop the site as proposed. **Special Condition 6** requires that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-21-0081, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act.

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EXHIBITS

[Exhibit 1 – Vicinity Map and Project Site](#)

[Exhibit 2 – Project Plans](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Conformance with Approved Final Plans and Geotechnical Recommendations.** All final design and construction plans, including grading and drainage plans, shall be consistent with all recommendations contained in the Update to Geotechnical Engineering and Engineering Geology Reports by LandPhases Inc. and Calwest Geotechnical, as well as all requirements of the City of Los Angeles Department of Building and Safety, Soils/Geologic approval letter Log # 108371, dated June 6, 2019, signed by Jeffrey Wilson and Alan Dang. The monitoring, construction methods and foundation system including the installation of

the piles, grade beams, permanent and temporary retaining walls shall conform to and include all requirements and specifications of the City review letter cited above.

The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall be carried out without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. No Future Bluff Protective Device(s) to Protect the Proposed Development.

- A. By acceptance of this permit, the applicant agree, on behalf of themselves and all other successors and assigns, that routine repair and maintenance of the proposed caissons and grade beams on the subject site shall be allowed; however, they shall not be enhanced/augmented or reconstructed for purposes of protecting the development approved by this coastal development permit (CDP No. 5-21-0081) and no new bluff protective device(s) shall be constructed to protect the development approved pursuant to CDP No. 5-21-0081 including, but not limited to, the residence, foundations, patios, pools, decks, balconies, and any future improvements and/or accessory structures, in the event that the development is threatened with damage or destruction from erosion, landslides, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waive, on behalf of themselves and all successors and assigns, any rights to enhance, augment, and/or reconstruct such devices that may exist under applicable law.
- B. By acceptance of this permit, the applicant further agree, on behalf of themselves and all successors and assigns, that the landowner is required to remove the development authorized by the permit if the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of protective devices. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required. This permit does not authorize encroachment onto public trust lands and any future encroachment onto public trust lands must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval.
- C. If any portions of the existing caissons and/or grade beams are removed, the applicant/landowners shall have a geotechnical investigation prepared by a

licensed coastal engineer and geologist, retained by the permittees, which addresses whether any portions of the development approved per CDP No. 5-21-0081 are threatened by geologic hazards. The report shall identify all those immediate or potential future measures that could stabilize the development without bluff protective device(s), including but not limited to removal or relocation of portions of the development. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical investigation concludes that any portion of the development is unsafe for occupancy, the permittees shall, within 90 days of submitting the investigation, apply for a coastal development permit amendment to remedy the hazard.

Prior to removal/relocation, the permittees shall submit two copies of a Removal/Relocation Plan to the Executive Director for review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/ relocated and the affected area restored so as to best protect coastal resources. In the event that portions of the development fall down the bluff before they are removed, the landowners shall remove all recoverable debris associated with the development and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. Water Quality and Drainage Plans.

- A. The applicant shall conform to the drainage and run-off control plan dated August 2018, showing that roof and surface runoff will be captured with area drains and an on-site drainage system that ultimately directs to an existing storm drain main along Montreal Avenue.
- B. The permittee shall undertake development in accordance with the approved final drainage plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris. The permittee shall comply with the following construction-related requirements:

- A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;

- C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
 - D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
 - E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
 - H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
 - I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
 - J. The discharge of any hazardous materials into any receiving waters shall be prohibited;
 - K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
 - L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity;
 - M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- 5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide activity, erosion and/or earth movement (ii) to assume the

risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

- 6. Deed Restriction. PRIOR TO ISSUANCE OF THIS PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The applicant is proposing to construct a 45-ft. tall, four-story, 4,468 sq. ft. single-family residence with an attached four car garage and two uncovered guest parking spaces on a vacant hillside lot. The project includes 5,600 cu. yd. of grading, which would be exported to a site outside of the Coastal Zone. The proposed grading would be undertaken to terrace the residence into the slope. The terracing would serve to reduce the overall massing of the residence, as viewed from Montreal Street. No landscaping is proposed for this project. Thirty-five shoring caissons would be used to create a caisson beam foundation for the residence. This proposed foundation is the minimum necessary to support the residence ([Exhibit 2](#)).

The project site is located on an inland bluff lot approximately 900 feet inland from the beach, landward of the first public road parallel to the sea (Vista Del Mar). The site consists of a vacant lot. Aerial records indicate that the project site has been vacant since at least 1972, the date of the oldest referenced aerial photograph. However, the project site does contain portions of a retaining wall adjacent to the Montreal Avenue right-of-way ([Exhibit 1](#)).

The project site is zoned R-1, which permits the development of single-family residences. The project site is surrounded by single-family residences ranging in size from 1,400 sq. ft. to 4,900 sq. ft. The proposed residence would be of a similar size, mass, and scale as the surrounding development, and therefore would not adversely impact the community character of the surrounding area. The proposed residence is consistent with the height, setback, and parking requirements imposed by the City, and therefore would not adversely impact public coastal views or public access to the coast.

The project proposes to maintain onsite runoff through the use of roof gutters, catch basins, biofiltration planters and concrete swales. These mechanisms will collect roof and surface runoff, treat runoff onsite, and direct flow to the public storm drain system located on Montreal Street. Nevertheless, the Commission imposes **Special Conditions 3 and 4**, which require the applicant to adhere to the drainage plan submitted on February 8, 2021 and adhere to construction best management practices.

The Commission has typically required that new development be designed in a manner that assures the stability of the proposed development itself and not significantly affect geologic hazards, such as landslides or erosion, of the site or surrounding area, while also avoiding the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. For residential development, the project life is typically assumed to be 75 years.

The project site is located on a northwest facing inland bluff with an approximate slope gradient of 2:1. A geology report prepared by LandPhases Inc on April 19, 2019 notes that minor cut and fill has occurred on the project site in association with the construction of Montreal Avenue and construction of the adjacent residence. A second geotechnical report dated May 1, 2019 by Calwest Geotechnical notes that the site consists of natural sand dune deposits and uncertified artificial fill. The artificial fill, which consists of silty sand, wood fragments, and plastic fragments, ranges between one ft. and 4 ft. in thickness, and is considered to be unsuitable to support a general slab foundation support or hardscape support.

To address the geotechnical report's concern with artificial fill, the proposed residence has been designed with a 35-caisson beam foundation. The applicant notes that the 35 caissons are the minimum amount necessary to support the proposed residence. The project plans indicate that no yards or accessory structures would be constructed in conjunction with the single-family residence. Therefore, the caisson beam foundation would only serve to protect the single-family residence.

Section 30253 requires that new development may not "in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." The applicant's geotechnical reports note that the subject area has not experienced either historic landslides or more recent landslides. All of the caissons are proposed to be below grade and once installed, will not be visible from public viewpoints and are not expected to become visible over the life of the proposed development. The site is bordered to the south, east, and north by residential development, consisting primarily of other single-family residences. Thus, in consideration of the substantial

landform alteration that has occurred in this area, the significant development seaward of the caissons, and the fact the caissons are proposed to be located entirely below grade and are unlikely to become exposed, the caissons are not a substantial alteration of a natural landform. Nevertheless, in order to further minimize landform alteration at the site, **Special Condition 2** prohibits installation of additional bluff protective device(s) in the future and requires the applicant to remove any structures that have been determined, by a final order, to be permanently unsafe for occupancy or use due to geologic hazards and that there are no measures that could make the structures suitable for habitation or use without the use of protective devices. Removal of the structures should be accompanied with a geotechnical investigation and Removal/Relocation Plan.

Based on the geotechnical findings and City's Soils Approval report, the proposed project will be safe and will not cause the subject site and surrounding area to become unsafe from geologic instability. The proposed development is considered feasible from a geotechnical engineering standpoint, provided the applicant follows the recommendations of the geotechnical reports and the conditions of LADBS. **Special Condition 1** requires conformance with the approved final plans and with geotechnical recommendations established by the applicant's geotechnical engineers and conditions required by LADBS approval letter.

Development adjacent to slopes such as those found on canyons or hillsides is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon public access, and visual resources. To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 5** requiring the applicant to expressly waive any potential claim of liability against the Commission for any damage or economic harm suffered as a result of the applicant's decision to develop the site as proposed. **Special Condition 6** requires that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability. Based on the conclusions of the applicant's geologist that the proposed development is safe from such hazards.

B. Hazards

Development adjacent to slopes such as those found on canyons or hillsides is inherently hazardous. Development which may require a protective device in the future can not be allowed due to the adverse impacts such devices have upon public access, and visual resources. To minimize risks to life and property the development has been conditioned to: require an appropriate set-back from the top of slope, to prohibit construction of protective devices (such as a retaining wall) in the future, for a drainage

and runoff control plan to minimize percolation of water into the slope, for a landscaping plan, and to require that the landowner or and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. Water Quality

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, the development, as proposed and as conditioned, incorporates design features to minimize the infiltration of water and the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, the use of non-invasive drought tolerant vegetation, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

D. Coastal Access and Recreation

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. Local Coastal Program (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The City of Los Angeles has neither a certified LCP nor a certified Land Use Plan (LUP) for the Playa Del Rey planning area. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act, as required by Section 30604(a).

F. California Environmental Quality Act

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the

proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application No. 5-21-0081 and associated file documents.