

July 21, 2021 City Council Meeting

Corrected Attachments 1 and 3 to Agenda
Item No. 4B

Resolution adopting the Whitmore Villas Mitigated
Negative Declaration and approving Tentative Map
No. 82607 (TM-20-03)

ATTACHMENT 1

Resolution adopting the Whitmore Villa Residential Development Mitigated
Negative Declaration and Mitigation Monitoring Reporting Plan and
approving TM20-03 (TTM 82607)

RESOLUTION NO.

A RESOLUTION ADOPTING THE WHITMORE VILLA MITIGATED NEGATIVE DECLARATION AND APPROVING TENTATIVE MAP NO 82067 (TM-20-03), ALLOWING FOR SUBDIVISION OF 2.8 ACRES INTO TWO PARCELS TO DEVELOP 63 TWO STORY TOWNHOME UNITS AT 126 NEW AVENUE

The City Council of the City of Monterey Park does resolve as follows:

SECTION 1: The City Council finds and declares that:

- A. On July 1, 2020, Feng Xiao Architecture, Inc., on behalf of Greenstate Holding Inc., submitted an application, pursuant to Monterey Park Municipal Code (“MPMC”) § 21.32.020 requesting approval of Tentative Map No. TM20-03 (TM 82607) to subdivide 2.8 acres into two parcels for residential condominium purposes (“Project”);
- B. The proposed Project was reviewed by the City Planner for, in part, consistency with the General Plan and conformity with the MPMC;
- C. In addition, the City reviewed the Project’s environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the “CEQA Guidelines”);
- D. The City Planner completed review and scheduled a public hearing regarding the Project before the City Council for July 21, 2021. Notice of the public hearing was posted and mailed as required by the MPMC;
- E. On July 21, 2021, the City Council held a public hearing to receive public testimony and other evidence regarding the proposed Project, including, without limitation, information provided to the City Council by City staff and public testimony, and representatives of the Applicant; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the City Council at its July 21, 2021 public hearing including, without limitation, the staff report submitted by the City Planner.

SECTION 2: *Planning Agency.* Pursuant to MPMC § 2.56.020(A), the City Council will act as the Monterey Park Planning Agency for purposes of this Resolution.

SECTION 3: *Factual Findings and Conclusions.* The City Council finds that the following facts exist and makes the following conclusions:

- A. The Applicant seeks a tentative map that would allow development of 63 two-story units with attached and subterranean garages at 126 New Avenue (the “Property”);

**CITY COUNCIL
RESOLUTION NO.
PAGE 2 OF 6**

- B. The Property is zoned R-3 (High Density Residential) and designated High Density Residential in the Land Use Element to the General Plan;
- C. Properties located to the north, south, east, and west of the subject property are R-3 zoned lots and are developed with multi-unit residential developments. The proposed condominium development is consistent with the type of uses that are currently developed in that neighborhood.
- D. The Project is accessible from both New Avenue and Whitmore Street.

SECTION 4: *Environmental Assessment.*

- A. In accordance with CEQA Guidelines § 15072, on March 15, 2021, a Notice of Intent to Adopt a Mitigated Negative Declaration was published in the Monterey Park Press newspaper, posted with the Los Angeles County Clerk and State Clearinghouse, and mailed to various agencies, regarding the availability and public review of the draft IS/MND for the proposed project.
- B. An IS of Environmental Impacts and an MND were prepared for the Project in accordance with the provisions of the CEQA, CEQA Guidelines, and the City of Monterey Park's Procedures for implementing CEQA.
- C. The IS/MND were made available to the public for review and comment from March 16, 2021 to and including April 14, 2021.
- D. During the 30-day public review period, the City received written comment letters concerning the draft IS/MND; the City has prepared responses to each of these comment letters as part of the final IS/MND and prepared an MMRP.
- E. A public hearing was held by the City Council of the City of Monterey Park on July 21, 2021 at which time evidence was heard on the IS, MND, MMRP, and staff report. At the hearing, the City Council fully reviewed and carefully considered the IS, MND, and MMRP, together with any comments received during the public review period.
- F. In accordance with CEQA Guidelines § 15074, the record on which the City Council's findings are based is located at the City of Monterey Park Public Works Department – Planning Division at City Hall, 320 West Newmark Avenue, Monterey Park, California 91754.
- G. When considering the whole record for the draft Initial Study and Mitigated Negative Declaration, there is no evidence that the Project will have the potential for an adverse effect on wildlife resources or the habitat on which

**CITY COUNCIL
RESOLUTION NO.
PAGE 3 OF 6**

the wildlife depends, because the Project is in a built-out urban environment.

- H. These findings are based on the various mitigation measures to be required in the implementation of the Project as adopted in the Mitigated Negative Declaration as already having been incorporated into the Project. The City Council finds that all the mitigation measures now incorporated into the Project are desirable and feasible.

SECTION 5: Adoption; Notice of Determination. Based upon the evidence presented to the City Council, the City need not prepare an environmental impact report for the proposed Project. The Mitigated Negative Declaration captioned “Whitmore Villa Residential Development,” and dated March, 2021, is adopted. The City Manager, or designee, is directed to file a Notice of Determination in accordance with CEQA §§ 15075 and any other applicable law.

SECTION 6: Subdivision. Based upon Section 3 and the evidentiary record, the City Council cannot make any of the findings for denial set forth in Government Code § 66474 and makes the findings set forth in MPMC § 20.04.070 as follows:

- A. The proposed map is consistent with applicable general and specific plans as specified in Government Code §65451. Per Section 3, the Project is consistent with the Land Use Element of the General Plan; there is no specific plan governing the Property.
- B. The design of the proposed subdivision is consistent with applicable general and specific plans. Per Section 3, the Project is consistent with the General Plan; there is no specific plan governing the Property.
- C. The site is physically suitable for the type of development. The proposed development meets the zoning development standards including, without limitation, setbacks, height, required parking, and landscaping. The Property is 122,879 square feet (2.82 acre) in size. The Project facilitates the development of 63 units capable of meeting the R-3 zone development standards.
- D. The site is physically suitable for the proposed density of development. The MPMC allows up to 70.5 units on the Property (a density of 1 unit per 1,743 square feet of lot area for lots having a minimum frontage of 200 feet and 50,000 square feet in size).
- E. The design of the subdivision or the proposed improvements is unlikely to cause substantial damage or substantially and avoidably injure fish or wildlife or their habitat. The Property is bordered by residentially developed lots to the north, south, east, and west. There are no rare plants, wild animals nor

**CITY COUNCIL
RESOLUTION NO.
PAGE 4 OF 6**

cultural, historical or scenic aspects within the surrounding area. The Property is not located within a natural watershed or wildlife corridor.

- F. The design of the subdivision or type of improvements is unlikely to cause serious public health problems. Construction of the Project will comply with applicable law. The Property is not identified as a hazardous site and is not located in close proximity to any known health hazards. The land use of the Property is residential, which is unlikely to result in serious health problems.
- G. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. There are no public easements for access within the proposed development.

SECTION 7: *Approval.* Subject to the conditions listed on the attached Exhibit "A," which are incorporated into this Resolution by reference, the City Council approves Tentative Map No. TM20-03 (Tentative Map No 82607).

SECTION 8: *Reliance on Record.* Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 9: *Limitations.* The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 10: *Summaries of Information.* All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 11: *Severability.* If any part of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provision or application and, to this end, the provisions of this Resolution are severable.

**CITY COUNCIL
RESOLUTION NO.
PAGE 5 OF 6**

SECTION 12: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 13: *Recordation.* The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or his duly appointed deputy, may attest thereto.

SECTION 14: *Effective Date.* This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

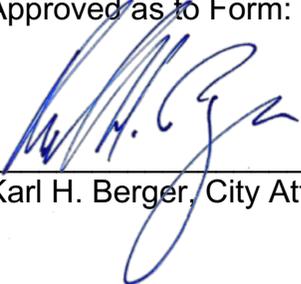
PASSED AND ADOPTED this ____ day of July, 2021

Yvonne Yiu, Mayor

Attest:

Vincent D. Chang, City Clerk

Approved as to Form:



Karl H. Berger, City Attorney

**CITY COUNCIL
RESOLUTION NO.
PAGE 6 OF 6**

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF MONTEREY PARK)

I, VINCENT D. CHANG, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. ____ was duly adopted by the City Council of the City of Monterey Park at a Regular Meeting held on the __ day of July 2021, by the following vote of the Council:

AYES:
NOES:
ABSTAIN:
ABSENT:

Dated this __ day of July 2021

Vincent D. Chang, City Clerk

Exhibit A

Conditions of Approval

In addition to all applicable provisions of the Monterey Park Municipal Code (“MPMC”), Feng Xiao (the “Applicant” or the “Owner/Developer”) will comply with the following conditions of approval for Tentative Map No. 82607 (TM-20-03) (“Project Conditions”).

PLANNING:

1. The project site must be developed and/or used in the manner requested and must be in substantial conformity with the tentative map date-stamped February 22, 2021, unless revisions and/or additional conditions are specifically required herein.
2. This approval runs with the land. All rights and obligations of this approval, including the responsibility to comply with these Project Conditions, are binding upon Applicant’s successors in interest. These Project Conditions may be modified, terminated, or abandoned in accordance with applicable law including, without limitation, the Monterey Park Municipal Code (“MPMC”).
3. Any proposed deviations from the exhibits, Project Description or Project Conditions must be submitted to the City Planner for review and approval. Any unapproved deviations from the Project approval will constitute a violation of the permit approval.
4. When exhibits and/or written Project Conditions are in conflict, the written Project Conditions prevail.
5. The effectiveness of this Project will be suspended for the time period that any Project Condition is appealed whether administratively or as part of a legal action filed in a court of competent jurisdiction. If any Project Condition is invalidated by a court of law, the Project must be reviewed by the City and substitute conditions may be imposed.
6. The developer/owner agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney’s fees), injuries, or liability, arising from the City’s approval of TM-20-03 except for such loss or damage arising from the City’s sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of TM-20-03, the Applicant agrees to defend the City (at the City’s request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section “the City” includes the City of Monterey Park’s elected officials, appointed officials, officers, and employees.

7. This approval is for the project as shown on the plans reviewed and approved by the City Council and on file. Before the City issues a building permit, the Applicant must submit plans, showing that the project substantially complies with the plans and conditions of approval on file with the Planning and Building and Safety Divisions. Any subsequent modification must be referred to the City Planner for a determination regarding the need for Planning Commission review and approval of the proposed modification.
8. Tentative Map No. 82607 (TM-20-03) expires twenty-four months after its approval if the use has not commenced or if improvements are required, but construction has not commenced under a valid building permit. A total of three, one year, extensions may be granted by the City Council upon finding of good cause. An application requesting an extension must be filed with the City Planner at least 30 days before the expiration date.
9. The Applicant must comply with all mitigation measures identified in the Mitigated Negative Declaration prepared for the Project. A Mitigation Monitoring and Reporting Program (MMRP) was prepared as part of the environmental review for the project and is attached as Exhibit "1" to this Resolution. The mitigation measures of the MMRP are incorporated into these conditions of approval by reference. All mitigation measures and conditions of approval must be listed on the plans submitted for plan check and the plans for which a building permit is issued.
10. Pursuant to Resolution No. 12199, adopted September 16, 2020, the Applicant must create a homeowners association. The standard conditions of approval required by Resolution No. 12199 are incorporated by reference and attached as Exhibit 2 to these Project Conditions.

ENGINEERING:

11. The developer/owner must record the Final Map after the City approves the Final Map in accordance with the MPMC and accepts any applicable bonds or agreements. A refundable \$96 cash deposit must be submitted to guarantee that developer will provide the City with: one transparent four-millimeter thick mylar tracing; one electronic file of approved final map tracings transferable to City's AutoCAD and GIS systems; and two blueprints of the recorded map which must be filed with the City Engineer within three months of recordation. If recorded copy is not submitted by the end of the three-month time period, developer will forfeit the \$96 cash deposit.
12. Before submitting a final map for City approval, the developer/property owner must provide written proof that there are no liens against the property for unpaid taxes or special assessments; submit Los Angeles County tax bill, tax payment receipt, and copy of cancelled check.

13. The developer/owner is responsible for ascertaining and paying all City development related fees including, without limitation, connection fees and impact fees required by Monterey Park Municipal Code ("MPMC") Chapter 3.110. Developer takes notice pursuant to Government Code § 66020(d) that City is imposing exactions upon the Project in accordance with the Mitigation Fee Act (Government Code § 66000, et seq.). Developer is informed that it may protest exactions in accordance with Government Code § 66020.
14. All improvement plans, including grading and public improvement plans must be based upon City approved data. Benchmark references must be obtained from the City's Engineering Division.
15. Provide survey monuments denoting the new property boundaries and lot lines to the satisfaction of the City Engineer. All maps must be prepared from a field survey. Compiled maps will not be permitted unless prior approval is granted by the City Engineer.
16. All public works improvements must comply with the standards and specifications of the City and to the satisfaction of the City Engineer. All public works improvements must be completed and accepted by the City before the City Council will consider a final map.

FIRE:

17. The at grade access road must be a minimum of 20 feet wide and have a minimum 13'-6" vertical clearance. Signage and markings will be required for all Fire Lanes.
18. An interior emergency access lane must be provided on the first level with signage and markings.
19. The required fire flow is 2,000 gallons per minute at 20 psi for a minimum two hour duration. The applicant must verify that the water purveyor can provide the required volume and duration for the project prior to obtaining a building permit.
20. Before combustible construction, a fire hydrant capable of providing 1,000 gallons per minute at 20 psi will be provided and in service along the access road/driveway no further than 250 feet from the construction site. The owner of the combustible construction is responsible for the cost of this hydrant installation.
21. Provide fire hydrants within 600 feet of all points of all new structures.
22. Provide an approved automatic fire sprinkler system and fire alarm system.

POLICE:

23. Adequate exterior lighting must be provided so that all outside perimeter areas are visible during the hours of darkness.
24. If security gates are installed on the property, it is recommended that an access control system (e.g., keypad, card reader, or electric latch retraction device) is installed at the ingress and egress gates and doors in order to control and deter unwanted access onto the property. A key card or key code must be provided to the Police Department to access the property in case of an emergency.
25. It is recommended that a camera surveillance/security system be installed in the common areas of the property such as the common walkways, exterior storage areas, building perimeters, and stairwells. If a camera security system is installed the cameras should operate 24 hours a day, seven days a week. All cameras should record onto a recording medium and all recordings should be maintained in a secure and locked enclosure. It is recommended that recordings be maintained for a minimum of 30 days and made readily available for any law enforcement official who requests the recording(s) for official purposes.
26. The shrubbery on the property must be installed and maintained in such condition to permit good visibility of the units from the streets. Any shrubbery surrounding the complex and in the courtyard areas must be planted and maintained where the height of the greenery would not easily conceal persons.
27. Prior to the issuance of a Certificate of Occupancy and if determined that radio communications are compromised within the parking garage, the applicant is required to implement the necessary improvements and install a bidirectional amplifier(s) (BDA).
28. The driveway leading into the complex must be constructed and maintained in such a condition that traffic is easily visible to those entering or leaving the location.
29. Any outside ladders leading to the roof top must be secured to prevent unauthorized access to the roof.
30. Address numbers must be illuminated during hours of darkness and positioned to be readily readable from the street. Numbers must be at least 12 inches in height.
31. Each distinct unit within the building shall have its address displayed on or directly above the front door.
32. All common open areas must be well lit during the hours of darkness.

33. Proper signs must be posted at the guest parking areas and in the driveway leading into the complex preventing illegal or overnight parking of unwanted guests.

34. A proper thoroughfare for residents, guests, and any necessary emergency vehicles and/or personnel must be maintained at all times. The Monterey Park Police Department Traffic Bureau must be contacted for sign verbiage and posting locations. The Traffic Bureau Sergeant can be reached at (626) 307-1481.

By signing this document, the Applicant certifies that he has read, understood, and agrees to the Project Conditions listed in this document.



Feng Xiao on behalf of Greenstate Holdings, Inc.

4. MITIGATION MONITORING

Table 1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)	
3.3 Cultural Resources					
CUL-1	<p>In the event that construction activities occur within previously undisturbed soils and buried cultural resources are discovered, such resources could be damaged or destroyed, potentially resulting in significant impacts to cultural resources. Prior to the issuance of a grading permit by the City, the project applicant shall retain a qualified archaeologist approved by the City and provide documentation of such retention to the City. The archaeologist shall train project construction workers on the types of archaeological resources that could be found in site soils. The archaeologist shall also periodically monitor project ground-disturbing activities. If archaeological resources are encountered, all construction work 100 feet of the resource find shall cease, and the archaeologist shall be consulted to assess the find, and to determine whether the resource requires further study. The qualified archaeological personnel must assist the City by generating measures to protect the discovered resources. Any previously undiscovered resources found during construction must be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms and evaluated for significance under all applicable regulatory criteria. An archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, must be retained to evaluate the finds and recommend appropriate mitigation measures.</p>	<p>Project Applicant Qualified Archaeologist Construction Contractor</p>	<p>Prior to the issuance of a grading permit</p>	<p>City of Monterey Park Planning Department</p>	
3.13 Noise					
N-1	<p>Before the City issues any demolition, grading and/or building permits, a note is required on all construction plans stating that during grading, demolition, and construction, the applicant is responsible for requiring contractors to implement the following</p>	<p>Project Applicant Construction Contractor</p>	<p>Prior to issuance of any demolition, grading and/or building permits</p>	<p>City of Monterey Park Planning Department</p>	

Mitigation Monitoring and Reporting Program

Table 1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<p>measures to limit construction-related noise to a performance standard of 65 dBA at nearby sensitive uses:</p> <ul style="list-style-type: none"> • Per the Monterey Park and Rosemead Municipal Codes, construction activity is limited to the hours of 7:00 am to 7:00 pm on weekdays and 9:00 am to 6:00 pm on Saturdays. Construction activities is prohibited on Sundays or on any federal holiday. • During the entire active construction period, equipment and trucks used for project construction must use the best available noise control techniques wherever feasible (e.g., improved mufflers, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds). • Require that impact tools (e.g., jack hammers and hoe rams) be hydraulically or electrically powered wherever possible. Where the use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust must be used along with external noise jackets on the tools. • Stationary equipment such as generators and air compressors must be located as far as feasible from nearby noise-sensitive uses. • Stockpiling of materials must be located as far as feasible from nearby noise-sensitive receptors. • At least 10 days before construction activities begin, a sign must be posted at the entrance(s) to the job site, clearly visible to the public, that includes permitted construction days and hours as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, he/she must investigate, take appropriate corrective action, and report the action to the City. • Signs must be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to 				

Mitigation Monitoring and Reporting Program

Table 1 Mitigation Monitoring Requirements

	Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
	<p>reinforce the prohibition of unnecessary engine idling. All other equipment must be turned off if not in use for more than 5 minutes.</p> <ul style="list-style-type: none"> • During the entire active construction period and to the extent feasible, the use of noise-producing signals, including horns, whistles, alarms, and bells, will be for safety warning purposes only. The construction manager must use smart back-up alarms, which automatically adjust the alarm level based on the background noise level, or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and laws. • Erect temporary noise barriers (at least as high as the exhaust of equipment and breaking line-of-sight between noise sources and sensitive receptors) at the property line, where feasible. Barriers must be constructed with a solid material that has a density of at least 4 pounds per square foot with no gaps from the ground to the top of the barrier. 				
N-2	<p>Before commencing any construction activities, the City of Monterey Park must mail a construction notice to residents within a radius of 300 feet from the construction site to inform them of the commencement of construction. The notice must also be posted onsite.</p>	City of Monterey Park Planning Department	Prior to commencing any construction activities	City of Monterey Park Planning Department	
N-3	<ul style="list-style-type: none"> • Dog park hours of operation are limited to 7:00 am to 7:00 pm, thereby restricting use during the more sensitive evening and nighttime hours. • Signage must be installed informing users that the dog owner or handler must be present at all times and cannot leave the dog(s) unattended. • Signage must be installed informing users that in the case of excessive barking, the owner or dog handler must remove the dog from the park. 	Project Applicant	Prior to issuance of occupancy permits and during operations	City of Monterey Park Planning Department	

Mitigation Monitoring and Reporting Program

Table 1 Mitigation Monitoring Requirements

	Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
N-4	If paving activity during construction is required within 25 feet of nearby residential structures, use of a static roller in lieu of a vibratory roller must be utilized.	Project Applicant Construction Contractor	During paving activity required within 25 feet of nearby residential structures	City of Monterey Park Planning Department	

EXHIBIT 2

STANDARD CONDITIONS OF APPROVAL FOR PROJECTS REQUIRING OWNER ASSOCIATIONS

General Conditions

1. The Applicant and its successors in interest must indemnify, protect, defend (with legal counsel reasonable acceptable to the City), and hold harmless, the City, its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively "Claims") arising out of or in any way relating to this project, any discretionary approvals granted by the City related to the development of the project or the environmental review conducted under the California Environmental Quality Act, Public Resources Code § 21000, *et seq.*, for the project. If the City Attorney is required to enforce any conditions of approval, all costs, including attorney's fees, must be paid for by the Applicant in accordance with the Monterey Park Municipal Code ("MPMC").
2. The Applicant must reimburse the City for all attorneys' fees expended by the City that are directly related to the processing of this project. The City will not issue a Certificate of Occupancy or other final occupancy approval until all attorneys' fees are paid by the Applicant.
3. The Applicant must submit to the City Manager, or designee, a signed copy of these conditions of approval acknowledging acceptance, and compliance with these conditions within 30 days from the date of approval by the Planning Agency. The conditions of approval must be signed, notarized and returned to the City Manager, or designee, before any plan check submittal or construction permit application or implementation of the requested entitlement.
4. This decision is not effective until Applicant acknowledges acceptance of all conditions and any appeal period has lapsed, or a waiver of right to appeal is filed or if there is an appeal, until a final decision has been made on the appeal. By use of the entitlements granted by a development application, the Applicant acknowledges agreement with conditions of approval.
5. Anything which is not shown on the application/plans, or which is not specifically approved, or which is not in compliance with this section, is not approved. Any application and/or plans which are defective as to, without

limitation, omission, dimensions, scale, use, colors, materials, encroachments, easements, will render any entitlements null and void.

6. The property must be kept in a clean and safe condition by, at a minimum, performing all of the following tasks:
 - a. Properly removing and storing all trash, litter, rubbish and debris on the property at the end of each business day;
 - b. Properly disposing of all trash, litter, rubbish and debris from the Cannabis business;
 - c. Removing graffiti placed upon the Property within forty-eight hours of its occurrence;
 - d. Keeping driveways, sidewalks, park strips, fire access roads and streets on or adjacent to the property clear and clean; and
 - e. Providing lighting on the property to ensure the safety of the public.
7. The owner/applicant's failure to comply with, or breach of, any condition can, in addition to any other civil or criminal action, result in modification or revocation of this permit. The City may, in accordance with applicable law, undertake action and incur costs that may be required to effect compliance. All such costs including, without limitation, attorney's fees, must be reimbursed by the applicant or current property owners in accordance with applicable law.
8. This permit is subject to an ongoing review. If at any time valid, substantiated complaints are received, a public hearing may be held in accordance with the MPMC, at the sole discretion of the City but in accordance with applicable law, to determine if any condition or the permit should be modified, amended or revoked.
9. The permit is granted for the subject Property only and is not transferable.

Planning

A. Before the City issues Building Permits:

10. Plans submitted to the City to obtain building permits must conform to all the conditions applicable to use and development of the Property.
11. Plans submitted to the City to obtain building permits must have the conditions printed directly onto the building plans and the Project number, "[Project Number]," in the title blocks of the blue prints for this Project.

12. The exterior of the building(s) must be treated with anti-graffiti material. All structures and walls must be maintained free of graffiti.
13. The property owner must repave and re-stripe the parking areas as directed by the City Planner.
14. All parking areas must remain accessible for parking. Garages cannot be converted to storage space or other means, which could impede vehicle parking.

B. Post-Finalization Requirements:

15. The Planning Director may approve minor changes to the approved plans, but any substantial change will require modification in accordance with the MPMC.
16. The Conditional Use Permit will expire in the event that the licensee or owner fails to exercise the use for more than 30 days, except in the case of a remodeling, fire, natural disaster, or other physical calamity beyond the control of the owner. In such cases, the Conditional Use Permit will expire within one year.
17. The Property and all landscaping must be maintained in a neat and healthy condition and in a manner that prevents adverse public health, safety, and welfare effects.
18. Proper signage must be installed within 60 days **([Month Day, Year])** of the approval of this Project.

E. Homeowners Association Requirements:

19. To ensure all common areas (e.g., driveway, hardscape, landscape) are properly maintained, a Homeowners' Association (HOA) and Covenants, Conditions and Restrictions (CC&R's) are required for the proposed Project. The developer(s) must hire a management company for the HOA. During sales of the units, the sales managers must sit on the HOA board. The developer(s) representatives can remove themselves from the HOA board only when 1) a new HOA board is selected from the new home owners; 2) the new home owners are trained on how to run the HOA; and 3) the units are fully occupied. The documents related to the HOA and CC&R's must be reviewed and approved by the City Attorney before the City approves a final map. In addition, the Applicant/Property Owner(s) must pay for all attorneys' fees associated with the review of the document.
20. The final approved floor plan for the residential units must be incorporated

into CC&R's.

21. The Homeowners Association must maintain a current and active business license with the City for the life of the project. Association dues may not be collected unless the Association has a current and active business license with the City.
22. Draft covenants, conditions and restrictions ("CC&Rs"), in a form approved by the City Attorney, must obtain approval from the City Planner, or designee, and include the following clauses:
 - a. *Payment of Municipal Charges.* The amount of the assessments levied by the Association must include sums sufficient to cover the cost of all municipal charges imposed against the Property including, without limitation, sums sufficient to ensure the payment of invoices from the City of Monterey Park ("City") for water, wastewater, and solid waste charges. In addition, the Association and the Owners, and the management agent, if any, must continuously guarantee payment to the City of all such municipal charges.
 - b. *Access and Entry.* The Association and each Owner covenants, in favor of the City, to provide access and entry to all common areas of the Property, and all buildings, structures and units situated thereon, to any authorized Fire Inspector, Building Official and any other official charged with carrying out the laws of the City, the State of California, or the United States of America.
 - c. *Signs.* Except as otherwise allowed by applicable law, the Association and each Owner covenant, in favor of the City, that no sign of any kind of advertising any service, business or other commercial project or venture can be displayed on the Property.
 - d. *Parking.*
 - i. The Association and each Owner covenants, in favor of the City, that all automobiles used by an Owner or an Owner's invitees must be identified to a representative of the Association and subject to tow if parked in an area not designated for parking automobiles or in a guest parking space.
 - ii. All driveways and garages must be maintained in a neat and orderly condition and garage doors must be maintained in closed condition except as necessary to permit ingress and egress of authorized vehicles or to clean or work in the garage. The garages are to be used for the parking of

standard authorized vehicles and may not be converted to living quarters or workshops or used for the storage of boats, trailers, campers or recreation vehicles in a way which will preclude the parking of the Owner's or occupant's authorized vehicles within the garage.

- iii. Designated guest parking areas within the Common Areas are to remain open for use by guests only and are not to be used by Owners or other residents, either permanently or temporarily, for the parking of their authorized vehicles or the storage of boats, trailers or similar items of personal property, unless expressly authorized by the Association.
 - iv. No motor vehicle can be constructed, reconstructed or repaired within the Property and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, can be stored on the Property; provided, however, that the provisions of this Section does not apply to emergency vehicle repairs.
 - v. Campers, boats, trailers, motorcycles, commercial vehicles and trucks in excess of three-quarter tons cannot be parked within the Property, other than within enclosed garages except for periods not to exceed two hours for the purpose of loading and unloading.
 - vi. Personal property other than authorized vehicles cannot be stored in garages if such storage will necessitate or result in the parking of vehicles on streets within or adjacent to the Property. Parking by commercial vehicles for the purpose of making deliveries or service calls must be permitted in accordance with the Association Rules.
 - vii. Each Owner must maintain their garage or parking spaces in a manner which ensures that it is capable of accommodating not less than the number of vehicles the space was designed to contain.
- e. *Graffiti.* The Association and each Owner covenants and agrees to maintain, or to cause to be maintained, all buildings and structures within the Property free of graffiti. In an event that the Association or an Owner fails to remove or to cause the removal of any graffiti within 24 hours of its receipt of written notice from the City requesting such removal, the City has the right and authority to enter upon the Property and remove or mask said graffiti. Any and all costs incurred by the City in connection with the removal or masking of such graffiti must be reimbursed to the City by the

Association and/or the Owner, if any, of affected building or structure.

- f. *Maintenance of Property.* The maintenance of all common wastewater and storm drainage facilities, and all landscaping, irrigation systems, slopes, drainage facilities and retaining walls, if any, located within the Common Area are Association's responsibility, and the maintenance of all irrigation systems, slopes, drainage, facilities and retaining walls, if any, situated within an Exclusive Use Common Area are the responsibility of the Association in the event the applicable Owner fails to provide such maintenance.
- g. *Filing of Information.*
 - i. Filing (Unincorporated Associations Only). The Association must cause the names and addresses of the officers and members of the Association to be filed annually with the City Clerk of the City of Monterey Park during the month of July.
 - ii. Filing (Incorporated Associations Only). The Association must cause the names and address of the officers and members of the Board of Directors of the Association to be filed annually with the City Clerk of the City of Monterey Park during the month of July.
- h. *Amendment of CC&Rs.* Notwithstanding any other provision of this Declaration the contrary, the statements and covenants set forth herein in favor of the City of Monterey Park cannot be modified and rescinded without the prior written consent of the City of Monterey Park.
- i. *Third-Party Beneficiary; Enforcement Rights.* City Enforcement of Declaration. Notwithstanding any other provision of this Declaration to the contrary, the city of Monterey Park has the power and the right, but not the obligation, to enforce any or all provisions of this Declaration as a third party beneficiary to the extent this Declaration contains provisions implementing the Monterey Park Municipal Code ("MPMC") or any condition of approval adopted by City Council resolution or ordinance. Failure by the City to enforce any restriction, covenant, condition, limitation or reservation imposed by the provisions of this Declaration does not constitute a waiver of the City's right to do so. The Association agrees to pay all costs associated with such enforcement including, without limitation, reasonable attorney's fees. The City may exercise its rights of enforcement without regard to any alternative dispute resolution provision in the CC&Rs or any other restriction on

enforcement otherwise applicable to owners, tenants, other residents, or the Association including, without limitation, provisions with regard to notice.

ATTACHMENT 3

Whitmore Villa Residential Development Mitigated Negative Declaration

Whitmore Villas Initial Study/Mitigated Negative Declaration - Vol I

Whitmore Villas Initial Study/Mitigated Negative Declaration - Vol II
- Technical