

RESOLUTION NO. 19-13

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL APPROVING A TENTATIVE
SUBDIVISION MAP FOR A 2-LOT 49 UNIT CONDOMINIUM
PROJECT ON A 2.29-ACRE SITE LOCATED AT 17020
DEPOT STREET (APN 726-13-049)**

WHEREAS, on December 3, 2018, The Latala Group, LLC submitted an application for a Tentative Subdivision Map (SD2018-0007: Depot-Latala);

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

WHEREAS, the City of Morgan Hill is the lead agency on the Project, and the Planning Commission is the decision-making body for the proposed Project; and

WHEREAS, the Planning Commission has reviewed and considered the Initial Study prepared for the Project; and

WHEREAS, the Initial Study prepared for the project is incorporated, by this reference, into this Resolution as if fully set forth herein; and

WHEREAS, although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in a Master EIR (MEIR) for the Downtown Specific Plan, and (b) have been avoided or mitigated pursuant to that earlier MEIR, including revisions or mitigation measures that are imposed upon the Project, nothing further is required. Furthermore, pursuant to CEQA Guidelines Section 15179, no substantial changes have occurred with respect to the circumstances under which the MEIR was certified, and there is no new available information, which was not known and could not have been known at the time that the MEIR was certified; and

WHEREAS, the proposed project is consistent with the development assumptions in the Downtown Specific Plan. The proposed project would not result in any new or more significant cumulative impacts than the previously approved project (disclosed in the Specific Plan MEIR). Mitigation measures adopted for the previously approved project where feasible and will be implemented by the proposed project; and

WHEREAS, the Planning Commission has determined that the proposed Project is consistent with the Downtown Specific Plan Master EIR pursuant to Sections 15177(b) and 15179(b) of CEQA Guidelines; and

WHEREAS, the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 89.5 of the California Department of Fish and Game Code.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The Tentative Subdivision Map, together with its provisions for its design and improvements, is consistent with the General Plan and Downtown Specific Plan.

The project is consistent with the General Plan in that the project encourages a mixture of uses by introducing residential and office space near the existing cultural center and supports the implementation of the Downtown Specific Plan. The map reroutes Depot Street to connect to Church Street which is specifically consistent with Policies TR-3.3, TR-3.15, and TR-8.14. The project is consistent with the Specific Plan in that the project provides a mixture of unit types with varying building sizes and roof plans as well as office space. This type of project meets the goals of the Downtown Specific Plan that encourage a wide diversity of retail and office uses including new homes and apartments to support the downtown businesses.

SECTION 2. The proposed project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as Exhibit A, and by this reference incorporated herein.

The tentative map with proposed development is consistent with the General Plan as explained above. The map meets the lot dimension minimums (See Table 4.1 and 4.2 of this report) and includes the appropriate frontage, on-site, and off-site improvements with land dedications which concludes consistency with the Zoning Ordinance and Specific Plans.

**PASSED AND ADOPTED THIS 10th DAY OF SEPTEMBER 2019, AT A REGULAR
MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES:	COMMISSIONERS:	MUNOZ-MORRIS, HABIB, MUELLER, TANDA, GONZALEZ-ESCOTO, KUMAR, DOWNEY
NOES:	COMMISSIONERS:	NONE
ABSTAIN:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

ATTEST:



JENNA LUNA, Deputy City Clerk

APPROVED:



JUAN MIGUEL MUÑOZ MORRIS, Chair

AFFIDAVIT

We, Latala Group LLC, applicants, hereby agree to accept and abide by the terms and conditions specified in this resolution.

By: 

Date: 10/4/19

EXHIBIT A

CONDITIONS OF APPROVAL

THE FOLLOWING ARE STANDARD CONDITIONS OF APPROVAL THAT MUST BE MET PRIOR TO THE ISSUANCE OF BUILDING PERMITS AND/OR SITE DEVELOPMENT PERMITS EXCEPT AS MAY BE SPECIFIED IN THE CONDITIONS. THE APPROVAL REQUIREMENTS INCLUDE THESE REQUIREMENTS AND ANY SPECIAL CONDITIONS THAT ARE APPLIED THROUGH THE DEVELOPMENT APPROVAL PROCESS. APPLICANTS ARE REQUIRED TO SIGN THE APPROVAL CERTIFICATE/RESOLUTION FORM INDICATING THEY UNDERSTAND AND AGREE TO IMPLEMENT THESE STANDARD CONDITIONS AND ANY SPECIAL CONDITIONS APPLIED TO THEIR PERMIT APPROVAL.

ACRONYMS:

MHMC – Morgan Hill Municipal Code

MHARH – Morgan Hill Architectural Review Handbook

PLANNING DIVISION

I. TIME LIMITS

- A. The Tentative Subdivision Map approval granted under this Resolution shall remain in effect for two years to September 10, 2021. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Development Services Department/Planning Commission prior to the expiration date. **(MHMC 17.20.170; 17.24.110)**

II. SITE DEVELOPMENT

- A. **FINAL MAP:** Recordation of a final map shall be in accordance with the number of building allotments granted through the Residential Development Control System (RDCS) for this project. Should a portion of the project's building allotment expire prior to final map approval, the number of lots on the final map shall be reduced to correspond to the remaining allotment. **(MHMC 18.156.150)**
- B. **STREET NAMES:** Street names, private or otherwise, used to identify building locations shall be submitted to the Planning Division for approval. Proposed street names shall comply with the Street Naming Policy approved by City Council (Res No. 4601)

III. HABITAT PLAN

- A. The approved project is covered under the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.

- B. Prior to issuance of building permits the project shall complete and submit a Habitat Plan Application Package. All fees must be paid prior to issuance building permits or grading permits. **(MHMC 18.132)**
- C. Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt). **(MHMC 18.132)**

IV. OTHER CONDITIONS

- A. This Tentative Map approval is limited to the plan set dated May 9, 2019 on file SD2018-0007 with the Development Services Department. These documents, as amended by Design Review approval, show the location and sizes of all lots in this development, the location and dimensions of all vehicle and pedestrian circulation ways (ingress/egress), common areas, and other easement areas. The final map shall be in substantial compliance with the approved tentative map as determined by the City Engineer and Development Services Director.
- B. Recordation of Map: The recordation of the final map shall not be completed until approval of the Design Review Permit is completed.
- C. Signed copies of Resolution: Submit two (2) signed copies of this Resolution to the Planning Division prior to issuance of building permits.
- D. Defense and indemnity: Applicant agrees to defend, indemnify, and hold harmless the City of Morgan Hill, its officers, agents, employees, officials and representatives (Indemnitees) from and against any and all claims, actions, or proceedings arising from any suit for damages or for equitable or injunctive relief which is filed against City to attack, set aside, void or annul its approval of this application or any related decision, or the adoption of any environmental documents which relates to said approval. The City shall promptly notify the Applicant of any such claim, action or proceeding and the City shall cooperate fully in the defense thereof. In the event that Applicant is required to defend Indemnitees in connection with the proceeding, Indemnitees shall retain the right to approve (a) the counsel to so defend Indemnitees; (b) all significant decisions concerning the manner in which the defense is conducted; and (c) any and all settlements, which approval shall not be unreasonably withheld. This indemnification shall include, but is not limited to, (a) all pre-tender litigation costs incurred on behalf of the City, including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals; (b) reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted; and (c) all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party arising out of or in connection with the approval of

the application or related decision. City may, in its sole discretion, participate in the defense of such action; but such participation shall not relieve Applicant of its obligations under this condition. The undersigned hereby represents that they are the Applicant or are fully empowered by the Applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by Applicant to be bound by such conditions.

E. Mitigation Monitoring Reporting Program. Applicant shall comply with and be responsible for implementing the mitigation measures and standard measures identified in the Initial Study for this project dated August 2019.

ENGINEERING DIVISION

I. PROJECT SPECIFIC

A. **Flood:** Majority of the project site is in Flood Zone X and a small portion in Zone AE, with Elevations between 345' NAVD88 near Fifth Street and 347' NAVD88 near Fourth Street. Zone AE is within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Buildings 1 and 2 are within Flood Zone AE.

1. A Flood Analysis Memorandum prepared by Schaaf & Wheeler for this project, dated February 12, 2019, has been reviewed. The memorandum stated that the project's impact to West Little Llagas Creek's water surface elevation was less than 0.1 feet and the cumulative impact of the project and the upstream developments was less than one foot which are within the City's requirements.
 - a. The project is encouraged to file a Conditional or Final FEMA Letter of Map Revision (CLOMR/LOMR or CLOMR-F/LOMR-F) to the Federal Emergency Management Agency (FEMA) for Buildings 1 and 2 to change the flood zone designation for the two buildings and remove the flood insurance requirement for the future residential owners.
2. Elevate the lowest floors of Buildings 1 and 2 a minimum of one foot above the base flood elevation determined in the Schaaf & Wheeler Flood Analysis.
3. An Elevation Certificate (FEMA Form 086-0-33) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate based on finished construction is required for each built structure prior to building final.
4. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.

B. **Street Improvements:**

1. At improvement plan stage, the project shall revise the plans to comply with the following:

- a. Move the raised pedestrian crossing at Depot Street within an adequate distance southwesterly to address possible sight distance issues between pedestrians crossing and vehicles on Depot Street and from the parking lots. Update mid-block crossing detail on Sheet C-04.
 - b. Add decorative streetlights along the west side of Depot Street (Leg 1 - next to the North Parking Lot) with spacing of 50' on center. The existing streetlight will be removed, salvaged and delivered to the City's Corp Yard.
 - c. Show the new striping and other proposed improvements at the intersection of Dunne Avenue and realigned Depot Street.
 - d. New street trees to match the existing street trees along Depot Street or comply with the Master Street Tree Plan as determined by the City Engineer. The type of replacement trees in the CCC Parking Lot will be determined at improvement plan stage.
2. The City's CIP Pavement Resurfacing Project will slurry seal Depot Street from Main Avenue to Dunne Avenue in August 2019. Striping, pavement restoration and other improvements along Depot Street will be reviewed in detail at improvement plan stage.

GENERAL:

- A. At Final Map stage, add a Public Service Easement over the new water line crossing the CCC South Parking Lot.
- B. Obtain a Right of Entry Agreement/Permit for work within Union Pacific Transportation Company's property.
- C. At improvement plan stage, provide a copy of the preliminary CC&R's or maintenance agreement showing entity/property owner responsible for maintaining the subsurface infiltration facilities located in the common areas.
- D. At improvement plan stage, submit a final cost estimate of the realigned Depot Street.
- E. After construction of the Depot Street Realignment, the developer shall submit a summary vacation submittal and drawings to vacate a portion of Depot Street.
- F. Prior to submitting improvements plans, the Developer and Project Engineer shall meet with Land Development Engineering Division to go over the project's RDCS commitments to be addressed.
- G. The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. **(MHMC 12.02.090 A; 17.32.010 A)**

- H. The applicant shall have a Final Map prepared by a registered engineer (licensed prior to 01/01/1982: registration number 33,965 or lower) or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be set as required by the City Engineer. **(MHMC 17.20.200 A; 17.20.290; 17.24.010)**
- I. The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the City Engineer prior to submittal of Final Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**
- J. Obtain an encroachment permit from the City of Morgan Hill and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**
- K. Improvement plans are to show water lines, sanitary sewer, storm drain system, pavement widths, curve radius, and existing utilities. Enter into a Subdivision Improvement Agreement (SIA) with the City of Morgan Hill to cover required improvements. **(MHMC 12.02.150; 17.32.010 B; 17.32.160)**
- L. Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved. **(MHMC 17.20.350 H)**
- M. **IMPACT FEE INCREASE**-The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established impact fees to finance the cost of improvements required by new development. City Code Chapter 3.56.050 provides for automatic annual (July 1st) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. The City maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours. **(MHMC 3.56.010; 3.56.030; 3.56.050)**

I. STREET IMPROVEMENTS

- A. The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to

the lines and grades and in a manner satisfactory to the City Engineer. All street improvements shall be constructed to the satisfaction of the City Engineer. The timing of the improvements will be determined by the City. (**MHMC 12.02.010; 12.02.090; 17.32.060 B; CMH General Plan; CMH Design Standards and Standard Details for Construction**)

- B. The project shall install and dedicate street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting in conformance with City of Morgan Hill requirements. (**MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010; 17.32.060**)
- C. Dedication of approximately 400 square feet on Depot Street and approximately 2,300 square feet on East Dunne Avenue. (**MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.90; 12.02.100; 17.28.010**)
- D. Underground existing utilities: all existing overhead utilities adjacent to any site boundary or along any street frontage of site shall be placed underground in accordance with City standards and affected utility company guidelines. (**MHMC 12.02.090 B; 17.32.020 E.1**)

II. SANITARY SEWER SYSTEM

- A. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on the proposed public street(s) or private street(s)/drive aisle(s). The sanitary collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye-branches and laterals, and separate sewer taps to each lot. These are to be installed by the developer. (**MHMC 13.20.355; 17.32.020 C; CMH Sewer System Master Plan; CMH Design Standards and Standard Details for Construction**)
- B. All existing and future sewer lines shall be tied into the City's system and existing septic systems shall be abandoned in accordance with City requirements. (**MHMC 13.24.060; 17.32.20 C**)

III. STORM DRAIN SYSTEM

- A. A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the City Engineer. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. (**MHMC 17.32.020 B; 17.32.090; CMH Design Standards and Standard Details for Construction**)

- B. The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Site Review plans. All storm drain improvements shall be constructed to the satisfaction of the City Engineer. **(MHMC 17.32.020 A & B)**
- C. Collection system shall be designed to be capable of handling a 10-year storm without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity. Streets shall be designed to carry a 100-year storm. Items of construction shall include, but not be limited to installation of storm line extension on proposed public street(s), surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows. **(MHMC 17.32.020 B; 18.74.440; CMH Design Standards and Standard Details for Construction; CMH Storm Drainage System Master Plan)**
- D. Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the City Engineer.
 - i. Storm drain calculations to determine detention/retention pond sizing and operations.
 - ii. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
 - iii. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.

(CMH Design Standards and Standard Details for Construction)

- E. BMP Tree protection shall be part of the SWPPP inspections.
- F. As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Land Development Engineering. A Waste Discharger Identification (WDID) number will be issued to the construction site after the SWRCB receives and verifies the

submitted ONLINE NOI information. The WIDI number and approved SWPPP Manual shall be provided to Land Development Engineering Division and the Building Division prior to any approval of grading activities (**SWRCB NPDES General Permit CA000002**).

G. NPDES GENERAL PERMIT SITE SWPPP INSPECTIONS AND COMPLIANCE:

- i. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP or RCE)**.
- ii. SWPPP Inspections shall occur weekly during the rainy season (September 15th thru May 1st).
- iii. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
- iv. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.
- v. Per each of the inspection conditions 2, 3, or 4, the NPDES SWPPP Inspector shall certify in writing to the Building Division and Land Development Engineering Division if the site is in compliance or non-compliance with the NPDES General Permit for Stormwater, site SWPPP Manual, and Water Pollution Control Drawings (per the CMH-SWPPP Inspection Check List to be provided by Land Development Engineering). QSD/QSP SWPPP Inspectors shall forward onsite and offsite information/certification to the Building (on-site private property issues) and Public Works (public right-of-way issues) inspectors respectively.
- vi. Prior to rain events, BMPs not in compliance will need to be corrected immediately.
- vii. Illicit discharges per the NPDES General Permit, non-compliance of tracking control, and inlet protection within the public right of way shall be addressed immediately.
- viii. Other non-compliance issues need to be addressed within a 24-hour period.
- ix. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow-up inspection.

*BMPs maintenance/inspections shall include tree protection if applicable.

IV. WATER SYSTEM

- A. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the City Engineer. The water system improvements shall be constructed within public easements or street

rights-of-way to the satisfaction of the City Engineer and dedicated to the City. **(MHMC 17.32.020 A & D; CMH Design Standards and Standard Details for Construction; CMH Water System Master Plan)**

- B. Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD) Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.
- C. Installation of water line extension on the proposed public streets and/or private streets. **(MHMC 17.32.020 A & D; CMH Water System Master Plan)**
- D. Provide separate water services and meters for each lot. These are to be installed by developer. **(MHMC 17.32.020 D)**

V. OTHER CONDITIONS

- A. The owner shall dedicate all necessary utility easements. **(MHMC 12.02.080 D; 17.28.010 A)**
- B. The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the City Engineer. **(MHMC 17.32.020 E.1)**
- C. The final map on all major subdivision (5 or more lots) shall be approved by the City Council prior to issuance of a grading permit. For minor subdivision (4 lots or less), the final map shall be signed by the City Engineer and the Planning Commission Secretary prior to issuance of a grading permit. **(MHMC 17.20.390; 17.24.210)**
- D. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Homeowner's Association.
- E. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**
- F. Prior to the approval of any Building Permit for grading activity, the developer shall schedule a preconstruction meeting with the Public Works Inspection Division with the following project team members:
 - i. Civil Engineer of record.
 - ii. Geotechnical Engineer of record.
 - iii. Third Party QSD/QSP SWPPP Inspector.

- iv. General Contractor.
- v. Sub Contractors.

VI. NPDES WATER QUALITY STORMWATER MANAGEMENT DEVELOPMENT STANDARDS

- A. State Water Resources Control Board Post Construction Requirements (PCRs): Project shall comply with the California Regional Water Quality Control Board Central Coast Region Resolution No. R3-2013-0032 as documented by the **Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements** (developed from Resolution No. R-2013-0032 Attachment 1 and 2 at: http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hyromod_charette_index.shtml). A copy of the guidance manual can be obtained through the Land Development Engineering's internet site. Project shall provide Stormwater Control Plan Checklist and applicable calculations per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements. Project shall meet the applicable requirements of the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements:
 - i. Performance Requirement 1: Site Design and Runoff Reduction
 - ii. Performance Requirement 2: Water Quality Treatment
 - iii. Performance Requirement 3: Runoff Retention
 - iv. Performance Requirement 4: Peak Management
- B. **Peak Storm Water Runoff Discharge Rates** - Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows.
- C. **Provide Storm Drain System Stenciling and Signage** - Storm drain stencils are highly visible source controls that are typically placed directly adjacent to storm drain inlets. The stencil contains a brief statement that prohibits the dumping of improper materials into the storm water conveyance system. Graphical icons, either illustrating anti-dumping symbols or images of receiving water fauna, are effective supplements to the anti-dumping message. All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: "NO DUMPING – DRAINS TO CREEK") and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public

access points along channels and creeks within the project area. Legibility of stencils and signs must be maintained.

D. Properly Design Trash Enclosure Areas - All trash enclosure areas must meet the following Structural or Treatment Control BMP requirements (individual single-family residences are exempt from these requirements):

- i. **Roof Required:** Trash enclosure areas shall have an all-weather noncombustible solid roof to prevent rainwater from mixing with the enclosure's contents
 1. **Walls Required:** Trash enclosure shall have structural walls to prevent unauthorized off-site transport of trash.
 2. **Doors:** Trash enclosure shall have door(s) which can be secured when closed.
 3. **Grades:** The pad for the enclosure shall be designed to not drain outward, and the grade surrounding the enclosure shall be designed to not drain into the enclosure.
 4. **Drain Inlet:** Within the enclosure, an area drain with an approved (Zurn) vandal proof drain shall be installed and shall be plumbed to the sanitary sewer system with grease trap. Grease trap shall be located within the trash enclosure footprint.

E. Design Standards for Structural or Treatment Control BMPs - The post-construction treatment control BMPs shall incorporate, at a minimum, either a volumetric or flow-based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) storm water runoff:

- i. **Volumetric Treatment Control BMP**
 1. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or
 2. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or
 3. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for “treatment” that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.

ii. Flow Based Treatment Control BMP

1. The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area; or
2. The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.

F. Stormwater Runoff Management Plan (SWRMP) required - The stormwater runoff management plan shall include sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures (post construction BMPs) proposed for managing stormwater runoff.

- i. The stormwater runoff management plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved stormwater runoff management plan.
- ii. The chief engineer or designee may require a developer to provide a signed certification from the civil engineer responsible for preparing the stormwater runoff management plan that all stormwater best management practices have been designed to meet the requirements of this chapter.
- iii. Each certifying civil engineer shall establish to the city's satisfaction that such person has been trained on the design of stormwater quality best management practices not more than three years prior to the certification signature date.
- iv. Qualifying training shall be conducted by an organization with stormwater quality management expertise, such as a university, the Bay Area Stormwater Management Agencies Association, the American Society of Civil Engineers, the American Public Works Association, or the California Water Environment Association.

G. Stormwater BMP operation, maintenance, and replacement responsibility

- i. All on-site stormwater management facilities shall be operated and maintained in good condition and promptly repaired/replaced by the property owner(s), an owners' or homeowners' association or other legal entity approved by the city.
- ii. Any repairs or restoration/replacement and maintenance shall be in accordance with city-approved plans.
- iii. The property owner(s) shall develop a maintenance schedule for the life of any stormwater management facility and shall describe the maintenance to

be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be included with the approved stormwater runoff management plan.

H. Stormwater BMP operation and Maintenance Agreement (SWBOMA)

required - Improper maintenance is one of the most common reasons why water quality controls will not function as designed or which may cause the system to fail entirely. It is important to consider who will be responsible for maintenance of a permanent BMP, and what equipment is required to perform the maintenance properly.

- i. Prior to the issuance of any building permit requiring stormwater management BMPs, the owner(s) of the site shall enter into a formal written stormwater BMP operation and maintenance agreement with the city. The city shall record this agreement, against the property or properties involved, with the County of Santa Clara and it shall be binding on all subsequent owners of land served by the storm water management treatment BMPs (City standard STORMWATER BMP OPERATION AND MAINTENANCE AGREEMENT to be provided by Land Development Engineering).
- ii. The stormwater BMP operation and maintenance agreement shall require that the BMPs not be modified and BMP maintenance activities not alter the designed function of the facility from its original design unless approved by the city prior to the commencement of the proposed modification or maintenance activity.
- iii. The stormwater BMP operation and maintenance agreement shall provide that in the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the city shall have the authority to perform maintenance and/or repair work and to recover the costs from the owner.

I. Stormwater BMP inspection responsibility

- i. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a **Register Civil Engineer (RCE)**.
- ii. Unless otherwise required by the chief engineer or designee, stormwater facility inspections shall be done at least twice per year (April 15th and September 15th) by the RCE. Written records shall be kept of all inspections and shall include, at minimum, the following information:
 1. Site address;
 2. Date and time of inspection;

3. Name of the person conducting the inspection;
4. List of stormwater facilities inspected;
5. Condition of each stormwater facility inspected;
6. Description of any needed maintenance or repairs; and
7. As applicable, the need for site re-inspection.

iii. Upon completion of each inspection, an inspection report shall be submitted to Land Development Engineering.

J. **Records of maintenance and inspection activities** - On or before April 15th and September 15th of each year, the party responsible for the operation and maintenance of on-site stormwater management facilities under the BMP operation and maintenance agreement shall provide the chief engineer or designee with records of all inspections, maintenance and repairs.

K. **Annual Certification of SWRMP** – On or before September 30th of each year a Registered Civil Engineer (RCE) shall provide written certification that the developments stormwater quality design standards are properly maintained and functioning as required by the SWRMP.

VII. **Mitigation Fee Act:** Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.