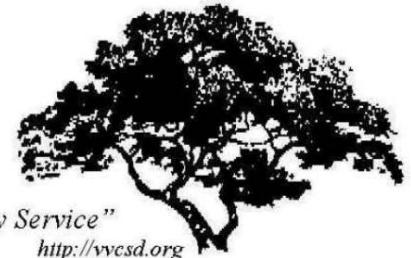


# VANDENBERG VILLAGE COMMUNITY SERVICES DISTRICT

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"Pride in Community Service"

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## RESOLUTION NO. 134-98

March 5, 1998

### **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VANDENBERG VILLAGE COMMUNITY SERVICES DISTRICT REVISING DISTRICT PROCEDURES FOR CONSIDERATION OF DEVELOPER REQUESTS FOR ISSUANCE OF CAN AND WILL SERVE LETTERS FOR WATER AND WASTEWATER SERVICES.**

WHEREAS, the Board of Directors adopted Resolution 120-95 establishing procedures for issuance of Can and Will Serve letters for developers requesting water and/or wastewater services from the District; and,

WHEREAS, the Board of Directors now finds that the adopted procedures are no longer compatible with the needs of the District, and,

WHEREAS, the Board of Directors finds that it is necessary to revise the adopted Can and Will Serve procedures to make the process compatible with the County's present land use permitting process.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Vandenberg Village Community Services District as follows:

1. That the revised *Procedure for Consideration of Can and Will Serve Letter Requests, Water and Wastewater Service* attached hereto as Exhibit "A" and made a part hereof by reference, is hereby approved and adopted as a replacement for the procedures formerly adopted by Resolution 120-95.
2. That said procedure shall henceforth be used by District staff and the Board of Directors in considering requests for new water and wastewater service.
3. That the Secretary is authorized and directed to provide to our County Supervisor and to the Director of the Santa Barbara County Planning and Development Department certified copies of this Resolution.

On the motion of Director White, seconded by Director Ellis

Roll call vote, to wit:

AYES: Directors Buttler, Ellis, Flaherty, and White  
NOES: None  
ABSENT: Small

Resolution No. 134-98 is hereby adopted.

/s/ Robert Flaherty  
Bob  
Flaherty  
President, Board of Directors

ATTEST:

/s/ Reina Paxton  
Reina Paxton  
Secretary, Board of Directors

### **SECRETARY'S CERTIFICATE**

I, Reina Paxton, Secretary of the Board of Directors of the Vandenberg Village Community Services District, hereby certify that the foregoing is a true and correct copy of Resolution No. 134-98, passed and adopted by the Board of Directors of the Vandenberg Village Community Services District at a regular meeting held on the 5th day of March 1998.

/s/ Reina Paxton  
Reina Paxton  
Secretary, Board of Directors

RESOLUTION NO. 134-98  
EXHIBIT "A"

VANDENBERG VILLAGE COMMUNITY SERVICES DISTRICT

**PROCEDURE FOR CONSIDERATION OF CAN AND WILL SERVE  
LETTER REQUESTS, WATER AND WASTEWATER SERVICE**

This procedure shall be used by the District when responding to requests for new water and wastewater service. The process shall be taken in two steps, as indicated by the use of "Intent to Serve" and "Can and Will Serve" letters. It covers the decision making process from the initial request for service until the notice that service will or will not be established.

"Intent to Serve" and "Can and Will Serve" letters will apply only to the locations and the specific projects they identify. They could be transferred with the ownership of the property but not to other property nor to different projects on that property. Any significant increase in capacity demands of a project, or its impacts, will require re-application. However, if changes which occur during the permitting period are determined by the Board to be not significant, the Board may determine to proceed with the process. In the event that the holder of a "Can and Will Serve" letter for a project subsequently decides to downsize a project (that is, require less water and wastewater capacity), the Board may determine to allow the downsized project to proceed, based upon the previously approved "Can and Will Serve" letter, without the process being started over.

The "Intent to Serve" Letter

The applicant requests water and/or wastewater service from the District for a specific project, which must be adequately described to include, as applicable:

- the APN numbers of the parcels involved
- the type of development proposed (residential, commercial, etc.)
- the size and number of units by type and use
- the anticipated indoor water use by unit type per annum
- the anticipated outdoor water use by unit type per annum
- the anticipated water use in common areas for indoor and outdoor use per annum
- the anticipated wastewater use and content for other than residential facilities
- the peak flow requirements for fire protection or separately metered irrigation systems

Staff determines if the project is within the service area of the District, analyzes other pertinent information submitted, and reports its findings to the Water/Wastewater Committee. The Committee reviews the application and staff report and makes a recommendation to the Board as to whether or not the District **has the capacity to serve the applicant's project with development conditions imposed** including District policy 6050.301, requiring the Developer to participate in some mechanism, acceptable to the District, intended to ensure that the project will not increase the District's net consumptive demand on groundwater. This is due to the existing condition of overdraft and concern over possible deterioration of the quality of the groundwater. The Board considers the staff and Committee reports and decides whether to issue an "Intent to Serve" letter.

The "Intent to Serve" letter confirms that the applicant's project is within the District's service area and indicates the District's **"intent to serve" the proposed project subject to development conditions to be identified and imposed in the "Can and Will Serve" letter.** It instructs the applicant to proceed with or complete the environmental review process with the County, and to work with the District Staff to identify project impacts and mitigation measures, and to develop the technical conditions to be incorporated into any necessary Development Agreement in order to receive service for the Project from the District. The Intent to Serve Letter is not an entitlement to water or wastewater service.

The "Intent to Serve Letter" shall be valid for so long as the Applicant is pursuing the proposed Project in good faith with permitting agencies. "Good faith" shall be evidenced by the Applicant taking any necessary actions in pursuit of project studies, designs, surveys, investigations, or document submittals, etc., required by permitting agencies or responsible agencies within twelve months of the time the action was required. (That is, if the County required, on January 12, 1999, a traffic study be performed and the Applicant failed to engage a firm to perform a traffic study by January 11, 2000, then the Intent to Serve letter would lapse.) The burden of proof of "good faith" lies with the Applicant to convince the Board of Directors of the Vandenberg Village Community Services District. Lack of financial resources to pursue the Project or the planning process requirements, shall not be an acceptable excuse for lack of demonstrated "good faith" progress. The Applicant shall, at least annually, or more often, after receiving an Intent to Serve Letter, notify the District in writing of actions taken in the permitting process which demonstrate "good faith" progress in pursuit of the Project.

## The “Can and Will Serve” Letter

During the Developer's project planning phase, Staff works with the developer's engineer(s) to identify project impacts, mitigation methods, required improvements for the project, and funding of mitigation costs and Development Agreement conditions. Staff prepares a recommended Development Agreement for review of the Water/Wastewater Committee and for adoption by the Board of Directors. The Development Agreement will be guided by the principal that all water and wastewater costs related to the proposed new project are to be borne by the Applicant, and that existing users of water and wastewater service from the District shall not be negatively impacted by water or wastewater costs related to the proposed new project.

Once the developer has received a final CEQA document and the District and developer agree on the terms and conditions of a Development Agreement, then the District may issue the “Can and Will Serve” letter making a commitment to serve based on the conditions of the Development Agreement. The Development Agreement will normally include the requirement that developer constructed water and/or wastewater facilities must be turned over to the District for ownership, operation and maintenance, subject to acceptance by the District and subject to applicable District Ordinances, Resolutions, rules and regulations.

The “Can and Will Serve” letter will be valid for a period of two years from date of issuance. It will continue valid beyond two years if the project has been commenced within two years and progresses continuously to completion. Any interruption in the progress of construction of the project which extends for a period greater than one year may result in termination of validity of the letter by determination of the Board.