

Rescinded and
Replaced with
Resolution
No. 134-98

RESOLUTION NO. 120-95

OCTOBER 5, 1995

**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 SEWER SERVICES.**

WHEREAS, the Board of Directors adopted Resolution 64-92 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 County of Santa Barbara's land use permitting process that was in effect at the time Resolution 64-92 was adopted; 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 Sewer 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 64-92.
2. That said procedure shall henceforth be used by District staff and the Board of Directors in considering requests for new water and sewer 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 Buttler, seconded by Director White.

Roll call vote, to wit:

AYES: Directors Buttler, Nash, Small , Picciuolo and White

NOES: None

ABSENT: None

Resolution No. 120-95 is hereby adopted.

Jon C. Picciuolo
President, Board of Directors

ATTEST:

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. 120-95, 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 October 1995.

Reina Paxton
Secretary, Board of Directors

RESOLUTION NO. 120-95
EXHIBIT "A"

VANDENBERG VILLAGE COMMUNITY SERVICES DISTRICT

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

This procedure shall be used by the District when responding to requests for new water and sewer 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.

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:

- 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 County application and staff report and makes a recommendation to the Board whether or not the District **has the capacity to serve the applicant's project with development conditions imposed.** 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.

County Staff prepares an Initial Study which follows the State CEQA Guidelines covering the anticipated impacts to water and wastewater systems. The initial study should be submitted with the request for services if available at that time, or as soon as it becomes available. Likewise a draft EIR should be submitted if one has been prepared. An existing EIR or Negative Declaration may be used if the proposed project is part of, or within and consistent with, the contents of the EIR or Negative Declaration.

In the case of an application for a single family home, to be built on an existing approved single family parcel, the application is exempted from environmental review. The Board may determine other limited use cases, including projects by public agencies or by non-profit public service or social service organizations, which may be exempt from CEQA.

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 tells the developer and the County:

- a. That new service connections may be postponed, at the Board's discretion, during times of drought or other existing or threatened water shortage emergency.
- b. Other conditions, restrictions and limitations associated with the District's decision to issue a "Can and Will Serve" letter, including the provisions of a Development Agreement.

The District will normally complete its review for "Intent to Serve" letters within 45 days after it is received from the applicant. If the District and the developer cannot mutually agree on an extension date, the District will then proceed to make a decision concerning service based on the information available to it. This can include declining to serve the project.

"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 change in a project or its impact will require reapplication. 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 (i.e. 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.

After the issuance of a "Can and Will Serve" letter, any change in the scope of the project by the developer which could reasonably be expected to increase the impact on water or wastewater services shall automatically trigger a supplemental process at the "Intent to Serve" letter stage. Issuance of a supplemental "Can and Will Serve" letter

by the District Board must occur before there can be implementation of any increase in water or wastewater service which is caused by a zoning change.

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. When an applicant desires to have a "Can and Will Serve" letter renewed, or extended, the applicant must meet all the requirements of the "Intent to Serve" and "Can and Will Serve" letter steps.

The agreements and service obligations set forth in the "Can and Will Serve" letter are not binding upon the District should uncontrollable events or circumstances occur which restrict the District's ability to perform. The "Can and Will Serve" letter provisions shall also be subject to all other Ordinances, Resolutions, rules and regulations of the District.