

CITY OF AMERICAN CANYON

Napa Valley's New Destination



December 16, 2009

Hilary Gitelman
Napa County Planning Department
1195 Third Street, Room 210
Napa, CA 94559

SUBJECT: Request for Water Service "Will Serve" Letter
(APN 057-210-056)

Dear Ms. Gitelman:

The City of American Canyon ("City") has received a request from Brian Kaufman of Napa 34 Holdings, LLC (Owner) for a "Will-Serve" letter from the City. The Owner is seeking a use permit from Napa County to construct the Napa Commerce Center, eight buildings totaling 490,503 square feet on a 34-acre site located at the southwest corner of SR 29 and Airport Boulevard.

At the August 5, 2008, City Council meeting, the City of American Canyon adopted Ordinance No. 2008-08, which revised the City's "Will Serve" policy to require that certain conditions and exactions be imposed prior to receiving water service for a parcel. On October 23, 2007, the City Council adopted a Zero Water Footprint Policy, further defining its water policy.

The City's understanding of the current request for water service for the Napa Commerce Center is based on Mr. Kaufman's submittal package received on September 22, 2009. Mr. Kaufman's "will serve" questionnaire states that the use will be industrial/warehouse (346,427 sf) and office space (144,076 sf).

Total Building Size	490,503 square feet
Total Lot acreage:	34 acres
Anticipated water demand:	10,800 gal/day (avg.)

According to the applicant's engineer, the water demand is estimated to be 318 gallons per acre, per day.

City Review

The City review of the proposed development is required as described previously, as well as established by City procedures which are meant to ensure that Will Serve Letters are only issued based on assumed water and sewer demands for specified allowed densities of development, taking into account the overall demand for water and the overall demand for effluent discharge within the City's system.

The City will provide the level of water service requested by the applicant, subject to the occurrence or satisfaction of the following conditions and/or the continued existence of the following described conditions:

1. Applicant shall be subject to the City's rules and regulations in force at the time application for service for the authorized and described development is made, including all fees and charges, unless otherwise agreed in writing.
2. Applicant shall construct all facilities required to serve the development property which shall be determined by the City based on the authorized and described development. Applicant shall bear 100% of the costs of the facilities required to serve the development property, subject to review and approval of the City's Public Works Department. Applicant shall also be responsible for paying its proportionate fair-share allocation of any additional regional facilities required to serve the development property, including, but not limited to, participation in a mutual beneficial assessment district to be initiated by others.
3. Applicant shall submit to the City cost estimates for the construction of all on- and off-site public water facilities required for the authorized and described development. If the City finds the costs reasonable, the Applicant shall pay to the City an amount equal to Applicant's proportionate fair share of 5% of the agreed-upon construction costs to cover plan check and inspection services by the City. This fee is fixed and non-refundable. This Will-Serve Letter is conditional upon the City's agreeing in writing to the estimated costs.
4. Because the City faces a cutback of up to 96% in its allocation from the State Water Project during extremely dry years, as documented by the City's Urban Water Management Plan, it is seeking additional water supply in the form of transfers of rights. The cost of this water supply is not known, nor is it included in the current City rates. The City is considering a drought surcharge on all customers, existing and new, in order to finance a drought reserve. The Applicant agrees to waive any protest to such a drought surcharge during its formulation and implementation and review under the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* ("CEQA").
5. As a result of *Vineyard Area Citizens for Responsible Growth v. Rancho Cordova* (2007) 40 Cal.4th 412, the lead agency as defined under CEQA, here the County, in its environmental review of a development project, including what is currently proposed by the Applicant, must at a minimum accomplish an environmental review under CEQA that: (a) presents sufficient facts to evaluate the pros and cons of supplying the water that the project will need; (b) presents an analysis that assumes that all phases of the project will be built and will need water, and includes an analysis to the extent reasonably possible of the consequences of the impacts of providing water to the entire project; and (c) where it is impossible to determine that anticipated future water sources will be available, some discussion of possible replacement sources or alternatives to use of anticipated water and of the environmental consequences of those impacts must be presented. *Vineyard, supra*, 40 Cal.4th 430-434.
6. On October 23, 2007, the City Council of the City of American Canyon adopted a Zero Water Footprint Policy (ZWF). The ZWF requires development to offset its water demand 100%. As a result of this policy, those applicants who do not meet the ZWF will be required to pay a surcharge on their monthly water rate. Because this project

monthly water service charge (based on 10,800 gpd average daily water demand) is approximately \$1,840 per month.

- b. The water capacity fee for the subject use will be \$296,946. (This fee is subject to change to coincide with current City of American Canyon water capacity fee)
 - c. Mitigation fees as outlined in the Water Supply Report.
8. This will serve letter is subject to the items and conditions of the Water Supply Report attached and hereto made a part of this "Will-Serve" agreement.
9. The City reserves the right to audit the site's water demand as deemed necessary in order to verify that the applicant's water use is in accordance with this Will-Serve Letter.

This Will-Serve Letter supersedes all prior purported Will-Serve Letters and service commitments to the development of the Property with any use. This Will Serve Letter will remain valid for a period of two years from its date and is only valid for the authorized development. The City reserves the right to further condition extension of water service if development different from that presently proposed and authorized is pursued or if events out the City's control impact the City's ability to furnish water.

Except to the extent set forth, this letter does not create a liability or responsibility to the Applicant or to any third party on behalf of the City. The City does not make a determination as to land use entitlements required for the proposed project, and the issuance of this Will Serve Letter shall not be construed to be an expression of the City of a position regarding the use or intensity of use of the development property or that the County has complied with applicable law in assessing the proposed project under CEQA.

This Will Serve Letter only becomes effective upon acceptance of the conditions set forth in this letter by execution of the acceptance provision set forth below and the transmittal of the executed acceptance to the City Public Works Department.

Sincerely yours,



Michael W. Throne
Public Works Director

- cc: Richard J. Ramirez, City Manager
William Ross, City Attorney
Brian Kaufman, Napa 34 Holdings, LLC
Greg Baer, Community Development Department
Barry Whitley, Finance Director
Susan Presto, Finance Manager
Christina Roybal, Finance Manager

ACCEPTANCE

I, _____, accept the conditions set forth in this communication.

(Title) Date: _____

(Title) Date: _____

34 Holdings, LLC
APN 057-210-056



A Tradition of Stewardship
A Commitment to Service

FILE # PO9-003294-330
Conservation Development and Planning

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Main: (707) 253-4417
Fax: (707) 253-4338

Hilary Gitelman
Director

PERMIT APPLICATION AND INITIAL STUDY
REQUEST FOR COMMENTS

TO: Napa SAN.

APPLICATION TITLE: NAPA 34 COMMERCE CTR - APN: 057-210-056

DESCRIPTION OF PROJECT: PLAN REVISIONS - NAPA(34)COMMERCE CENTER ... MIT NEG DEC DUE ~ 3.17.10
POTENTIAL HEARING ~ 4.21.10.

RESPONSE REQUEST DATE: _____ RESPONSE RETURN DATE: ASAP (if any)

PLEASE RESPOND VIA E-MAIL TO: CHRIS.C@HILL @countyofnapa.org
OR FAX TO (707) 299- _____

This application (see enclosed project description and maps) is being sent to you for your review and comment.

With respect to environmental analysis, the County is assuming Lead Agency status for the project and will be preparing the necessary environmental documents.

1. Do you have any comments on this project? Yes No
2. Do you have jurisdiction by law over this project? Yes No
3. Attach your agencies comments, or list below: Comments attached Comments below.

Applicants shall meet NSD's requirements for the project dated 9/11/09.

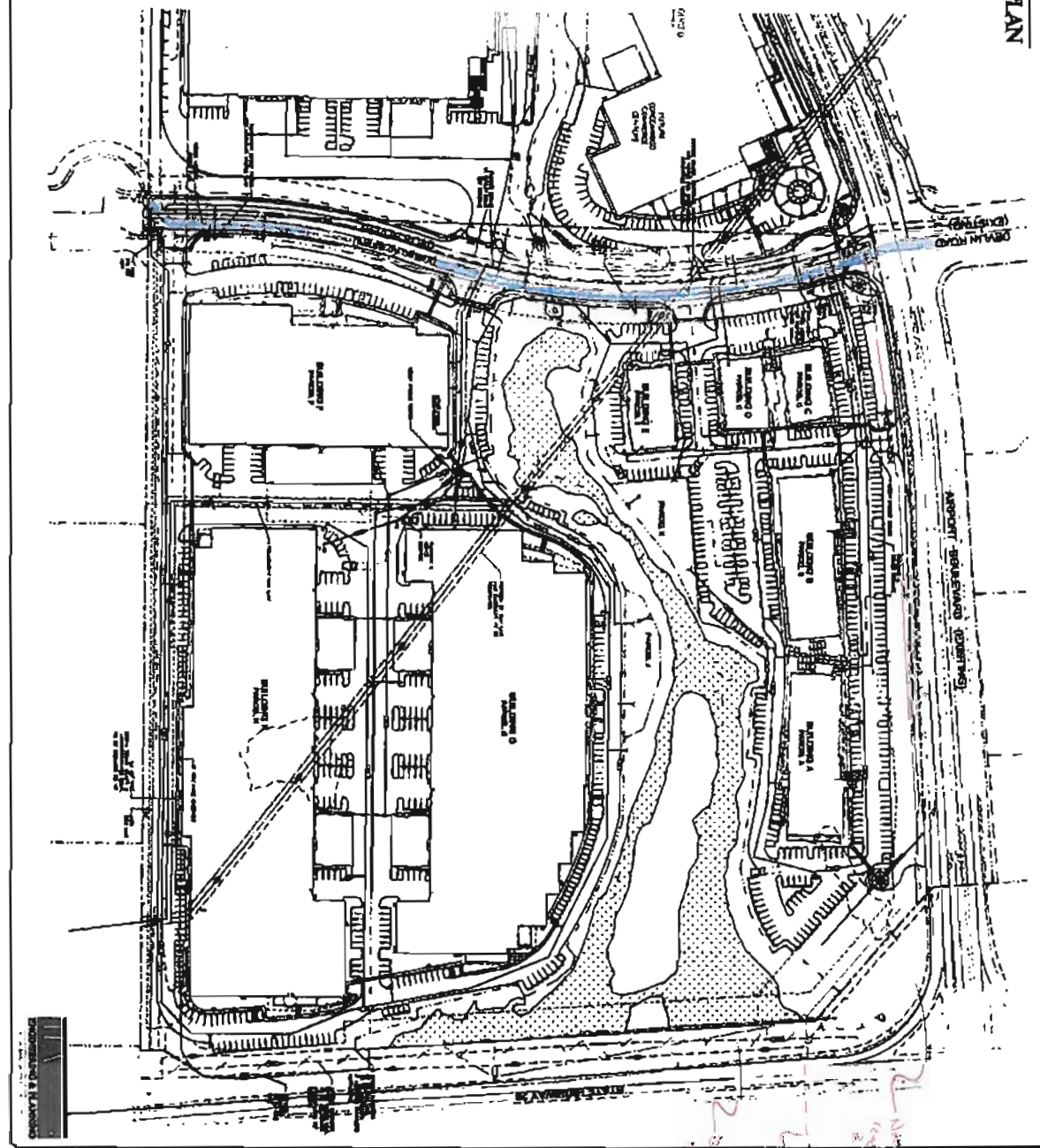
Name of contact person: ROBIN GRAMBLE HOWEY Telephone #: 258-6000 X531
Email: rgramble@napasam.com
Title: JWR Eng
Date: 4/13/10

NAPA COMMERCE CENTER

NAPA COUNTY, CALIFORNIA

PRELIMINARY UTILITY PLAN

JULY 2009
SHEET 3 OF 4



SYMBOL	DESCRIPTION
[Symbol]	WATER MAIN
[Symbol]	SEWER MAIN
[Symbol]	GAS MAIN
[Symbol]	STORMWATER MAIN
[Symbol]	UTILITY VALVE
[Symbol]	MANHOLE
[Symbol]	STRUCTURE
[Symbol]	WETLAND
[Symbol]	EXISTING UTILITY
[Symbol]	PROPOSED UTILITY
[Symbol]	PROPOSED STRUCTURE
[Symbol]	PROPOSED WETLAND

*Also please provide
with a detailed timeline
to be
approx. location of (E)
structure to be
inland*