



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2934
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www.ci.mequon.wi.us

Public Works/Engineering
Taped and Televised

SEWER UTILITY DISTRICT COMMISSION

Monday, August 29, 2022

7:30 PM

Christine Nuernberg Hall

Agenda

- 1) Call to Order, Roll Call
- 2) Discussion Items
 - a. Overview of Action Items for the Proposed Sewer Service Area Boundary Amendment
- 3) Resolutions

Action requested: review and recommend approval

 - a. **RESOLUTION 3975** A Resolution Approving Language to be Incorporated into a Development Agreement for Swan Ridge Farms for Private Sewer Service to Adjacent Properties
 - b. **RESOLUTION 3976** A Resolution Approving Sanitary Sewer Service Area Agreements for Properties Adjacent to Proposed Site Development at Swan Ridge Farms Subdivision (10129 and 10133 North Swan Road)
- 4) Adjourn

Dated: August 29, 2022

/s/ Andrew Nerbun, Mayor

Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the City Administrator's Office at 262-236-2941, Monday through Friday, 8:00 AM – 4:30 PM



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Office of Sewer Utility District Commission

TO: Sewer Utility District Commission
FROM: Kristen Lundeen, Director of Public Works/City Engineer
DATE: August 29, 2022
SUBJECT: Overview of Action Items for the Proposed Sewer Service Area Boundary Amendment

On Aug 10, 2022, the Sewer Utility District Commission recommended Common Council approval of an amendment to the sanitary sewer service area to include the Swan Ridge Farms subdivision and two adjacent parcels. That item will be before the Common Council on August 29 for action.

Two additional items pertaining to the sanitary sewer service area boundary amendment are also included on the agenda:

1. Proposed language obligating the Developer to construct Private Sanitary Sewer Service to the adjacent property owners at 10129 and 10133 North Swan Road.
2. Sewer Service Area Agreement for the adjacent property owners at 10129 and 10133 North Swan Road.

As noted in the memos for those agenda items, the documents clarify the terms and conditions for the Developer to provide legal and practical access to the public sewer infrastructure as a part of the proposed subdivision. The agreements further define the adjacent property owners obligations of inclusion in the Sewer Service Area.



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Office of Sewer Utility District Commission

TO: Sewer Utility District Commission
FROM: Kevin Driscoll, Deputy Director of Utilities
DATE: August 29, 2022
SUBJECT: RESOLUTION 3975 A Resolution Approving Language to be Incorporated into a Development Agreement for Swan Ridge Farms for Private Sewer Service to Adjacent Properties

Background

Rezoning the proposed Swan Ridge Farms subdivision land was conditioned on the approval of the Sanitary Sewer Service Area Boundary Amendment. That process was initiated in May 2022, and as part of this boundary amendment process, City Staff sent notice of the change to the adjacent property owners. They expressed an interest in being added into the Sanitary Sewer Service Area, conditioned upon the Developer extending a shared service to the property line. This requirement is included in the proposed Development Agreement language. See Exhibits. The requirement to extend a lateral to adjacent properties is consistent with similar requirements for subdivisions within the Central Growth Area.

Analysis

The Sewer Service Area boundary amendment process precedes the preliminary plat and Development Agreement approval. In order to obligate the Developer to construct a shared lateral, City staff is requesting approval of the attached language to be included in the final Development Agreement document.

The proposed Development Agreement language is consistent with the agreement for the adjacent property owners. Please note that the Developer requested modifications to the language that staff is recommending for approval. Refer to Exhibit A for the recommended Development Agreement language related to the Private Sewer Service, and refer to Exhibit B for the Developer mark-ups and comments to the draft Development Agreement language.

Fiscal Impact

No cost to the City is anticipated, as the Developer builds and contributes the sanitary sewer infrastructure. The Sewer Utility anticipates an additional 85 connections and new utility customers in the sanitary sewer service area.

Recommendation

Staff recommends that the Sewer Utility District recommend adoption of a resolution for a development agreement that makes sanitary sewer available with legal and practical access to 10129 Swan Road and 10133 Swan Road, and is contingent upon any changes between the date of this memo and the meeting.

Attachments:

Exhibit A - Development Agreement (Recommended) (PDF)

Exhibit B - DA (Developer Requested Revisions) (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3975

A Resolution Approving Language to be Incorporated into a Development Agreement for Swan Ridge Farms for Private Sewer Service to Adjacent Properties

RECITALS

A. The approval of the Swan Ridge Farms property rezoning was conditioned upon an amendment to the City of Mequon Sewer Service Area to include the property.

B. Two adjacent properties located at 10133 and 10129 North Swan Road are also included in the amendment to the City of Mequon Sewer Service Area but lack legal and practical access to public sanitary sewer infrastructure.

C. Consistent with the Sewer Utility's practice of requiring new development to provide legal and practical access to public utility infrastructure through the negotiation of a Development Agreement.

D. The Development Agreement for Swan Ridge Farms will not be approved until the application for preliminary plat approval, after the amendment to the City of Mequon Sewer Service Area is complete.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin, that:

1. The Development Agreement for Swan Ridge Farms in the form as attached is approved subject to any technical, clerical and/or legal changes deemed necessary and appropriate by the City Attorney.

2. The Mayor and City Clerk are authorized and directed to execute and deliver the same.

Approved by: Andrew Nerbun, Mayor

Date Approved: August 29, 2022

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 29, 2022.

Caroline Fochs, City Clerk

(f) Provide legal and practical sanitary sewer service to the properties located at 10133 and 10129 North Swan Road (“Adjacent Properties”). Legal and practical sanitary sewer service is defined as:

- i. City and regulatory approval of a private sewer service service (“Private Sewer Service”) to the Adjacent Properties.
- ii. Construction of the Private Sewer Service in conformance to Section 4.4 of the Standard Specifications for Land Development, current edition. Based on the requirements of Section 4.4, the Private Sewer Service will be designed to flow by gravity. Provided that the Private Sewer Service meets the requirements of Section 4.4, the City shall not require Developer to increase the depth of the public sanitary sewer system in order to accommodate gravity flow from the basements of the Adjacent Properties.
- iii. The Private Sewer Service shall connect to the public sanitary sewer infrastructure within the right-of-way and terminate with a sanitary manhole at the intersection of the property lines of the Adjacent Properties and Outlot 4. The Private Sewer Service shall be constructed within an easement.
- iv. A Sanitary Sewer Easement and Declaration Agreement is required for the benefit of the owners of the Adjacent Properties. The easement shall be a minimum of 20 feet wide, centered on the Private Sewer Service and be located either between Lots 78 and 79, between Lots 79 and 80 or between Lots 80 and 81. The easement shall be exclusive of all other infrastructure and impediments, including stormwater management facilities.
- v. The Private Sewer Service shall be installed in its entirety at the time of the public sanitary sewer installation and must be functional prior to final plat approval.

(f) Provide legal and practical sanitary sewer service to the properties located at 10133 and 10129 North Swan Road ("Adjacent Properties"). Legal and practical sanitary sewer service is defined as:

- i. City and regulatory approval of a private sewer service six-inch (6") lateral service ("Private Sewer Service") to the Adjacent Properties.
- ii. Construction of the Private Sewer Service in conformance to Section 4.4 of the Standard Specifications for Land Development, current edition. Based on the requirements of Section 4.4, the Private Sewer Service will be designed to flow by gravity. Provided that the Private Sewer Service meets the requirements of Section 4.4, the City shall not require Developer to increase the depth of the public sanitary sewer system in order to accommodate gravity flow from the basements of the Adjacent Properties, sewage ejector pumps may be required.
- iii. The Private Sewer Service shall connect to the public sanitary sewer infrastructure within the right-of-way and terminate with a sanitary manhole at the intersection of the property lines of the Adjacent Properties and Outlot 4. The Private Sewer Service shall be constructed within an easement.
- iv. A Sanitary Sewer Easement and Declaration Agreement is required for the benefit of the owners of the Adjacent Properties. The easement shall be a minimum of 20 feet wide, centered on the Private Sewer Service and be located either between Lots 78 and 79, between Lots 79 and 80 or between Lots 80 and 81. The easement shall be exclusive of all other infrastructure and impediments, including stormwater management facilities.
- v. The owners of the Adjacent Properties shall each pay \$8,750.00 to Developer upon Developer satisfactorily completing Section 11(f)(i) above as a condition precedent to constructing the Private Sewer Service. Upon receiving payment, the Private Sewer Service shall be installed in its entirety at the time of the public sanitary sewer installation and must be functional prior to final plat approval. This entire Section 11(f) shall be null and void if the Adjacent Properties are not included in the sanitary sewer service area.

Commented [KL1]: This will be determined by the Standard Specifications for Land Development, as shown in (f)ii.

Commented [KL2]: While the Developer seeks to ensure that the City will not require an increase in depth, the City wants to ensure that minimum standards will be met.

Commented [KL3]: The means and methods of connection for the Adjacent Properties are not the subject of this agreement.

Commented [KL4]: Staff does not agree that the Adjacent Properties shall be required to pay. Central Growth Subdivisions were required to provide service to adjacent properties at no cost to the property owners. For consistency, staff recommends against this fee.

The Developer requested to include the fee "to make sure they are committed to connecting to the sewer". The fee created with the subdivision is required to have a sanitary lateral, without a guarantee of connection. Once the sewer system is built and contributed to the Sewer Utility, the connection is of no consequence to the Developer.

Commented [KL5]: Not required. The sewer service boundary amendment will be approved and processed prior to the approval of the Development Agreement. If the Adjacent Properties are not included within the sewer service area, this entire section of the Development Agreement will be null and void.



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Office of Sewer Utility District Commission

TO: Sewer Utility District Commission
FROM: Kevin Driscoll, Deputy Director of Utilities
DATE: August 29, 2022
SUBJECT: RESOLUTION 3976 A Resolution Approving Sanitary Sewer Service Area Agreements for Properties Adjacent to Proposed Site Development at Swan Ridge Farms Subdivision (10129 and 10133 North Swan Road)

Background

The Common Council approved the rezoning for the proposed Swan Ridge Farms subdivision conditioned upon a boundary amendment to the Sewer Service Area (SSA). As the proposed subdivision surrounds two existing residential lots, City staff sent correspondence to existing property owners of 10129 and 10133 North Swan Road to determine whether they would want to be included in the SSA boundary amendment. After several meetings to discuss the terms and conditions of the decision, staff generated a Sewer Service Area Agreement. See Exhibit A.

The intent of the Agreement is to define the terms and conditions of being within the SSA, including payment of the sewer tax, even when not connected to public infrastructure. As a condition of signing the Agreement, the residents requested that the Developer extend a shared sewer service (private interceptor main) to the shared property line to provide legal and practical access to the public infrastructure.

Analysis

Staff met with the existing adjacent property owners on Friday, August 19, to answer questions about the Sewer Service Area Agreement and how it relates to the draft Development Agreement. The property owners provided written comments to the Sewer Service Area Agreement, and the revised agreement is Exhibit B.

The property owners are interested in being in the Sewer Service Area but are looking to ensure that both the Sewer Service Area Agreement and language for the Private Sewer Service within the Development Agreement represent the terms and conditions they are requesting.

The property owners have been made aware that their connection to the sanitary sewer requires multiple agreements. In addition to the Sewer Service Area Agreement, that references the Development Agreement, two more agreements are needed. An Easement Agreement and Forcemain Agreement are necessary. Those documents will govern the private portion of the community system serving both lots.

The Sanitary Sewer Easement is required for the portion of the sanitary sewer that goes through outlot and will be granted through the plat process. Based on the agreement, the Developer and owner of the outlot will construct the sanitary sewer on the subdivision property to the shared

property line of the adjacent properties, and grant easement access to the adjacent property owners. This type of easement typically establishes the responsibility for operation and maintenance of the sewer, and to make sure no obstructions are placed in the easement. The existing adjacent property owners would be obligated to responsibilities for future operation, maintenance and repairs. These agreements have not been finalized pending final approvals for the subdivision.

Fiscal Impact

No cost to the City is anticipated, as the Developer builds and contributes the private sewer service. The Sewer Utility is anticipated to gain two utility customers that will be within the sanitary sewer service area.

Recommendation

Staff recommends that the Committee of the Whole recommend adoption of a resolution to agree that 10129 North Swan Road and 10133 North Swan Road become part of the sanitary sewer service area with legal and practical access to sanitary sewer infrastructure, and is contingent upon any changes between the date of this memo and the meeting.

Attachments:

Exhibit A - Sanitary Service Area Agreement_Template (PDF)

Exhibit B - Sanitary Service Area Agreement (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3976

A Resolution Approving Sanitary Sewer Service Area Agreements for Properties Adjacent to
Proposed Site Development at Swan Ridge Farms Subdivision (10129 and 10133 North Swan
Road)

RECITALS

A. The approval of the Swan Ridge Farms property rezoning was conditioned upon an amendment to the City of Mequon Sewer Service Area to include the property.

B. Two adjacent properties located at 10133 and 10129 North Swan Road are also included in the amendment to the City of Mequon Sewer Service Area and will be provided with legal and practical access to public sanitary sewer infrastructure by the Developer.

C. The Sewer Utility seeks to define the terms and conditions for inclusion in the City of Mequon Sewer Service Area for the existing and potential future property owners.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin, that:

1. The Sanitary Service Area Agreements for 10133 and 10129 North Swan Road are approved subject to any technical, clerical and/or legal changes deemed necessary and appropriate by the City Attorney.

2. The Mayor and City Clerk are authorized and directed to execute and deliver the same.

Approved by: Andrew Nerbun, Mayor

Date Approved: August 29, 2022

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 29, 2022.

Caroline Fochs, City Clerk

Document Number	SANITARY SERVICE AREA AGREEMENT Document Name	
This Sanitary Service Area Agreement (the "Agreement") is made by and between the City of Mequon (d/b/a the "City") and _____ (the "Owner") (collectively, the "Parties," individually, a "Party"). WHEREAS, a developer is proposing a residential development (the "Development") at Tax ID 140320400000, within the City's Sanitary Utility District; and WHEREAS, the Owner owns property adjacent to the Development at _____ Swan Road (Tax ID _____) (the "Property"); and WHEREAS, the City has sought to have the developer of the Development to provide sanitary sewer access to the Property as part of the Development; and WHEREAS, the Owner requested to be included in the Sanitary Sewer Service Area Boundary Amendment request. NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties hereby agree as follows:		Recording Data Name and Return Address City Engineer 11333 N Cedarburg Road Mequon, WI 53092 Parcel Identification Number

1. Owner, its successors and assigns, agrees not to seek a waiver from its obligation under the ordinances from the City during the term of this Agreement.
2. Owner acknowledges and agrees that the Property will be subject to Sanitary Tax, effective the date the property transfers into the Sewer Service Area.
3. Owner acknowledges that the Sanitary Tax is required to be paid for as long as the Property is within the Sanitary Sewer Service Area. Only petition and approval by the City and all regulatory agencies to have the Property removed from the Sanitary Sewer Service Area would allow for elimination of the Sanitary Tax. Removal of the Property from the Sanitary Sewer Service Area is not permitted if the Property has legal and practical access to public sanitary sewer infrastructure.
4. Existing structures on the Property are not required to connect to public sanitary sewer infrastructure at the time of transfer into the Sewer Service Area. Any new structures which require sanitary sewer service or if the existing private onsite wastewater treatment system fails, connection to the public infrastructure is required.
5. As part of the Development, the City will ensure that the Developer provides, at Developer's cost, an appropriate main or private interceptor to provide service to the Property, and the Owner shall be responsible for its lateral to connect into the main or private interceptor.
6. The Owner agrees to accept responsibility and cost for the operation, maintenance, supplement, repair, enlarging, reconstruction, relocation, inspection and/or extension of underground sanitary sewer facilities necessarily or conveniently incident to the Developer's general plan for sewage disposal with all of its necessary apparatus and appurtenances and will execute an easement agreement with the Developer documenting that responsibility and cost.

7. The Owner agrees to accept responsibility and cost for improvements required on the Property to connect the structures to the sanitary sewer system.
8. The Parties expressly agree that this document shall be binding upon any successors, assigns and heirs of the Parties. It is the intention of the Parties that this document be recorded with the Ozaukee County Register of Deeds and that the obligations set forth in this document run with the specific properties within the Development.
9. This Agreement shall remain in full force and effect unless terminated by mutual agreement of the Parties in writing.
10. Any notice sent in relation to this Agreement shall not be considered to be effective unless sent by Certified United States mail to the following addresses:

3.1 To the City of Mequon:

Director of Public Works/City Engineer
City of Mequon
11333 N. Cedarburg Road 60W
Mequon, WI 53092-1930

3.2 To Owner:

Either Party may change its address for notice by providing notice of said change to the other Party.

11. This Agreement shall be governed by and construed under the internal laws of the State of Wisconsin.
12. This Agreement represents the complete understanding between the Parties and any amendment to this Agreement must be agreed to in writing by the Parties.

CITY OF MEQUON

By: _____
Signature

Name: _____
Type or Print

Date: _____

OWNER

By: _____
Signature

Name: _____
Type or Print

Date: _____

Approved by: _____
Brian C. Sajdak, City Attorney

Document Number

**SANITARY SERVICE
AREA AGREEMENT**

Document Name

This Sanitary Service Area Agreement (the "Agreement") is made by and between the City of Mequon (d/b/a the "City") and _____ (the "Owner") (collectively, the "Parties," individually, a "Party").

WHEREAS, a developer is proposing a residential development (the "Development") at Tax ID 140320400000, within the City's Sanitary Utility District; and

WHEREAS, the Owner owns property adjacent to the Development at _____ Swan Road (Tax ID _____) (the "Property"); and

WHEREAS, the City has sought to have the developer of the Development to provide sanitary sewer access to the Property as part of the Development, and required the Developer to include language within the Development Agreement as approved by the Common Council on August 29, 2022; and

WHEREAS, the Owner requested to be included in the Sanitary Sewer Service Area Boundary Amendment request.

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties hereby agree as follows:

1. Owner, its successors and assigns, agrees not to seek a waiver from its obligation under the ordinances from the City during the term of this Agreement.
2. Owner acknowledges and agrees that the Property will be subject to Sanitary Tax, effective the date the property transfers into the Sewer Service Area.
3. Owner acknowledges that the Sanitary Tax is required to be paid for as long as the Property is within the Sanitary Sewer Service Area. Only petition and approval by the City and all regulatory agencies to have the Property removed from the Sanitary Sewer Service Area would allow for elimination of the Sanitary Tax. Removal of the Property from the Sanitary Sewer Service Area is not permitted if the Property has legal and practical access to public sanitary sewer infrastructure.
4. Existing structures on the Property are not required to connect to public sanitary sewer infrastructure at the time of transfer into the Sewer Service Area. Once public infrastructure is built and contributed to the Sewer Utility, Any any new structures which require sanitary sewer service or if the existing private onsite wastewater treatment system fails, connection to the public infrastructure is required.
5. As part of the Development, the City will ensure that the Developer provides, at Developer's cost, an appropriate main or private interceptor to provide service to the Property, and the Owner shall be responsible for its lateral to connect into the main or private interceptor. The location of connection is defined in the language for the Development Agreement as approved by the Common Council on August 29, 2022.
6. The Owner agrees to accept responsibility and cost for the operation, maintenance, supplement, repair, enlarging, reconstruction, relocation, inspection and/or extension of underground sanitary sewer facilities necessarily or conveniently incident to the Developer's general plan for sewage disposal with all of its necessary apparatus and

Recording Data

Name and Return Address

City Engineer
11333 N Cedarburg Road
Mequon, WI 53092

Parcel Identification Number

appurtenances and will execute an easement agreement with the Developer documenting that responsibility and cost.

7. The Owner agrees to accept responsibility and cost for improvements required on the Property to connect the structures to the sanitary sewer system.
8. The Parties expressly agree that this document shall be binding upon any successors, assigns and heirs of the Parties. It is the intention of the Parties that this document be recorded with the Ozaukee County Register of Deeds and that the obligations set forth in this document run with the specific properties within the Development.
9. This Agreement shall remain in full force and effect unless terminated by mutual agreement of the Parties in writing.
10. Any notice sent in relation to this Agreement shall not be considered to be effective unless sent by Certified United States mail to the following addresses:

3.1 To the City of Mequon:

Director of Public Works/City Engineer
City of Mequon
11333 N. Cedarburg Road 60W
Mequon, WI 53092-1930

3.2 To Owner:

Either Party may change its address for notice by providing notice of said change to the other Party.

11. This Agreement shall be governed by and construed under the internal laws of the State of Wisconsin.
12. This Agreement represents the complete understanding between the Parties and any amendment to this Agreement must be agreed to in writing by the Parties.

CITY OF MEQUON

By: _____
Signature

Name: _____
Type or Print

Date: _____

OWNER

By: _____
Signature

Name: _____
Type or Print

Date: _____

Approved by: _____
Brian C. Sajdak, City Attorney

Attachment: Exhibit B - Sanitary Service Area Agreement (RESOLUTION 3976 : Sewer Service Area Agreement)