



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2914
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of the City Clerk
Taped and Televised

**COMMON COUNCIL
Special Meeting
Monday, August 29, 2022 - 7:30 PM
or Immediately Following the
Sewer Utility District Commission Meeting
Christine Nuernberg Hall**

Agenda

- 1) Call to Order**
- 2) Pledge of Allegiance**
- 3) Roll Call**
- 4) Public Hearing:**
 - a) **RESOLUTION 3974** - A Resolution to Adopt an Amended Water Quality Management Plan; **Recommended by Sewer Utility District Commission August 10, 2022.**
- 5) Resolutions:**
 - 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; **Recommendation Forthcoming by Sewer Utility District Commission August 29, 2022.**
 - 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); **Recommendation Forthcoming by Sewer Utility District Commission August 29, 2022.**
 - c) **RESOLUTION 3974** - A Resolution to Adopt an Amended Water Quality Management Plan; **Recommended by Sewer Utility District Commission on August 10, 2022; Public Hearing at Special Common Council August 29, 2022.**
- 6) Adjourn**

Dated: August 24, 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 Clerk's Office at 262-236-2914, Monday through Friday, 8:00 AM – 4:30 PM.



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Office of Sewer Utility District Commission

TO: Common Council
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: Common Council
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)



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 Mequon, WI 53092
 Phone:
 Fax: 262-242-9655

www.ci.mequon.wi.us

Office of Sewer Utility District Commission

TO: Common Council
FROM: Kevin Driscoll, Deputy Director of Utilities
DATE: August 24, 2022
SUBJECT: RESOLUTION 3974 A Resolution to Adopt an Amended Water Quality Management Plan

Background

Properties within the sewer service area are required to connect to the public utility. Conversely, properties outside of the sewer service area may not connect to the utility. Properties outside of the sewer service area that seek a boundary amendment are required to follow the process listed below. In April, the proposed Swan Ridge development requested rezoning approval, which was conditioned upon an amendment to the sewer service area. The status of the process is included in italics.

- Sewer Utility District Commission (SUDC) recommendation and Common Council approval of the boundary amendment - *Complete April 29, 2022*
- Southeastern Wisconsin Regional Planning Commission (SEWRPC) issuance of a Water Quality Management Plan - *Received August 1, 2022*
- SUDC recommendation for the adoption of the Water Quality Management Plan - *Anticipated late August, 2022*
- Public Hearing and Common Council adoption of the Water Quality Management Plan - *Pending late August; required prior to September 2, 2022*
- SEWRPC Planning and Research Committee and Full Commission approval - *Anticipated September 14, 2022**
- Sewer service area amendment report approved by SEWRPC Executive Director - *Anticipated September 16, 2022*
- SEWRPC publication of final report - *Anticipated 2-3 weeks after adoption*
- Milwaukee Metropolitan Sewerage District (MMSD) approval of Request to Join District - *Anticipated at the next monthly Commission meeting following SEWRPC approval*
- Wisconsin Department of Natural Resources (WDNR) - *Anticipated between 30 days and 3 months of receipt*
- Sewer service area boundary amendment complete

*If the submittal deadline is not met, the next opportunity for approval is with SEWRPC's December meeting cycle

On April 29, the Sewer Utility District Commission and Common Council approved a resolution to authorize a boundary amendment to the City of Mequon sanitary sewer service area to add three parcels (140320400000, 140320400100, 140320400200) for a total of 93.3 acres. Staff

transmitted necessary files to the SEWRPC following the rezoning of Parcel #140320400000 located northwest of the intersection of County Line Road and Swan Road.

On August 1, staff received a response from SEWRPC regarding the proposed amendment to the Mequon Sanitary Sewer Service Area. The response is consistent with the City's request, and it is attached as Exhibit A. A public hearing will be scheduled in the end of August, and the attached notice will be published in the News Graphic, per N.R. 121 and Chapter 985 public hearing notice requirements and the City of Mequon Code of Ordinances, Section 58-43. See Exhibit B.

Analysis

SEWRPC reviewed the City's request to revise the Sanitary Sewer Service Area, and the draft response indicates that the Water Quality Management Plan revision is consistent with the City's request. As part of this process, a public hearing will be scheduled for in advance of the SEWRPC meeting on September 14, 2022. Also, additional reviews by the MMSD and the WDNR are anticipated to follow.

Parcels 140320400100 and 140320400200 are current residential dwellings, at 10133 N. Swan Road and 10129 N. Swan Road, with privately owned wastewater treatment systems (holding tanks). Staff has communicated with these property owners about the potential for sanitary sewer to become available, and these property owners have expressed interest in being connected to the City's sanitary sewer system. Staff had a series of correspondence, emails and a meeting with respective owners, and Sanitary Sewer Service Agreements were transmitted to respective property owners. See Exhibit C.

Fiscal Impact

Once the parcels are included in the Sanitary Sewer Service Area, then the City incurs capital charges by MMSD. In addition, customers connected to public infrastructure are subject to quarterly utility charges.

The improvements to address the capacity issues within the system will be constructed with Sewer Utility capital funds and would be required even if the development did not propose connection.

Recommendation

Staff recommends approval of the amendment to the City of Mequon's area wide Water Quality Management Plan prepared by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) that reflects the revised Sanitary Sewer Service Area.

Attachments:

Exhibit A - Mequon SSA Amendment (Preliminary Draft - August 2022) (PDF)

Exhibit B - 2022-08-30_public hearing notice (PDF)

Exhibit C - Sanitary Service Area Agreement_Template (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3974

A Resolution to Adopt an Amended Water Quality Management Plan

A. The Southeastern Wisconsin Regional Planning Commission (SEWRPC), working in cooperation with the City of Mequon has prepared an amendment to the sanitary Sewer Service Area map for the Mequon area, specifically Section 32, Township 9 North, Range 21 East.

B. The amendment is set forth in the SEWRPC Staff Memorandum regarding an amendment to the Water Quality Management Report, dated August 2022.

C. On August 10, 2022, the Sewer Utility recommended to approve the amended sanitary sewer service area set forth in the aforementioned SEWRPC Staff Memorandum regarding an amendment to the Water Quality Management Report.

D. On August 29, 2022, the Common Council held a public hearing to allow for input and to incorporate any necessary revisions for the Water Quality Management Report and Sanitary Sewer Service Area boundary amendment.

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

1. The amendment to the City's Sanitary Sewer Service Area described above is approved.

2. The City Clerk is directed to transmit a certified copy of this Resolution to the Southeastern Wisconsin Regional Planning Commission.

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

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

W239 N1812 ROCKWOOD DRIVE • PO BOX 1607 • WAUKESHA, WI 53187-1607 •

TELEPHONE (262) 547-6721
FAX (262) 547-1103

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SEWRPC Staff Memorandum

RESPONSE TO REQUEST BY THE CITY OF MEQUON TO AMEND THE MEQUON SANITARY SEWER SERVICE AREA

August 1, 2022

INTRODUCTION

By letter dated May 16, 2022, Mr. Will Jones, City Administrator for the City of Mequon, requested that the Southeastern Wisconsin Regional Planning Commission (SEWRPC) amend the City of Mequon sanitary sewer service area tributary to the Milwaukee Metropolitan Sewerage District (MMSD) sewerage system, as that area is currently documented in SEWRPC Community Assistance Planning Report No. 188, *Sanitary Sewer Service Area for the City of Mequon and the Village of Thiensville, Ozaukee County, Wisconsin*, dated January 1992, as amended. The purpose of the amendment is to include within the planned sewer service area certain lands located immediately adjacent to, but outside, the currently adopted sewer service area.

AREA DESCRIPTION

The area proposed to be added to the Mequon sewer service area is shown on Map 1. The subject area encompasses about 93 acres and is located north of County Line Road, south of Donges Bay Road, east of Granville Road, and west of Swan Road, in U.S. Public Land Survey Section 32, Township 9 North, Range 21 East, City of Mequon, Ozaukee County, Wisconsin. The subject area also includes two existing homesites along the west side of Swan Road that are currently outside the planned sewer service area.

The subject area contains about seven acres of environmentally significant lands, consisting of primary environmental corridor (including about four acres of wetland within the environmental corridor), and two small, isolated wetlands outside of the primary environmental corridor (that combined, encompass about one-quarter of an acre).

Under the City comprehensive plan, the subject area is recommended to be developed for low-density residential uses, at one housing unit per acre.¹ It is estimated that upon full development, the proposed residential portion of the subject site would accommodate about 85 housing units (including the two existing homes), with an estimated population of 235 persons.

A more-detailed delineation of the amended sewer service area and the environmentally significant lands within is shown on the aerial photograph reproduced as Map 2.

RELATIONSHIP OF THE PROPOSED CHANGE TO THE EXISTING SANITARY SEWER SERVICE AREA

The proposed addition of about 93 acres to the Mequon sanitary sewer service area tributary to the MMSD sewerage system represents an increase in the planned sewer service area of less than 1 percent. The provision of 85 housing units (including the two existing homesites) within the subject area would increase the resident population of this portion of the Mequon sewer service area by about 235 persons. The estimated buildout population of the expanded sewer service area—that is, the population that could be accommodated under full development of this portion of the sanitary sewer service area—would approximate 28,435 persons.² The year 2050 population range for this area in the regional land use plan (VISION 2050) is 26,605 to 31,495 persons.

WATER QUALITY IMPACTS

Under the adopted regional water quality management plan and the Mequon sanitary sewer service area plan, it is envisioned that all new urban development within the planned sewer service area would receive sanitary sewer service. Assuming that all applicable Federal, State, and local permits are obtained and proper

¹ The subject area is proposed to be developed as a cluster design single-family residential neighborhood (R-3 zoning, Residential 1-Acre) based on one-acre densities.

² As part of the sewer service area amendment for the City of Mequon completed in 2008, the buildout population of the portion of the sewer service area tributary to the Milwaukee Metropolitan Sewerage District (MMSD) was estimated to be about 28,200 persons. The proposed amendment to the sewer service area would increase the population by approximately 235 persons. In March 2021, MMSD completed its 2050 Facilities Plan, and as part of that plan, the 2050 buildout population of the portion of the sewer service area tributary to the MMSD in the 15 sewersheds within the City of Mequon is estimated to be about 48,760 persons.

site development and construction practices are employed, there should be no significant adverse water quality impacts attributable to the development of the planned sanitary sewer service area.

WASTEWATER TREATMENT PLANT CAPACITY

The size and capacity of the MMSD sewage conveyance and treatment facilities are set forth in the District's facility plan completed in 2021.³ The area proposed to be added to the planned sewer service area would be tributary to Sewershed ME 3009. The MMSD facility plan is based upon a planned Sewershed ME 3009 peak hourly flow allocation of 1.69 million gallons per day (mgd), with 168,000 gallons per day (gpd) remaining for new development. The proposed addition to the sewer service area would add a planned residential development area of about 93 acres with a population of about 235 persons to Sewershed ME 3009, for a peak hourly flow contribution of approximately 293,200 gpd. While this would exceed the available capacity in Sewershed ME 3009, it can be noted that Sewershed ME 3009 combines with Sewershed ME 3013 at the District's Metropolitan Interceptor Sewer (MIS), and together have a combined peak hourly flow allocation of 3.66 mgd. This would be sufficient available capacity to address the proposed additional development. Based on the aforementioned data above, MMSD staff have verified that there is planned capacity available for the area proposed to be added to the sewer service area.

The addition of the proposed area will require an upgrade to the Tamerlane Drive Lift Station "O" owned and operated by the City of Mequon. The upgrade includes replacing two pumps and constructing an additional forcemain, and the necessary work is anticipated to be completed by Spring 2023.

PUBLIC REACTION TO THE PLAN AMENDMENT

A public hearing was held on _____, 2022, at the Mequon City Hall to receive public comment on, and reaction to, the proposed sewer service area amendment. The hearing was sponsored by the City of Mequon and the Regional Planning Commission.

(To be completed following the public hearing.)

³ Milwaukee Metropolitan Sewerage District (MMSD) 2050 Facilities Plan, March 2021.

LOCAL ACTION ON THE PLAN AMENDMENT

(To be completed following the public hearing.)

REGIONAL HOUSING PLAN: JOB/HOUSING BALANCE

Appendix A provides job/housing balance information for the City of Mequon developed under the SEWRPC regional housing plan. The inclusion of information from the regional housing plan in sewer service area amendment reports is based upon a regional housing plan recommendation (one of 50 recommendations made under the plan) that 1) SEWRPC provide the findings of the approximate job/housing balance analysis conducted under the regional housing plan to communities requesting an amendment of their sanitary sewer service area and 2) for those communities with a job/housing imbalance, that recommendations be provided to the community for their future consideration in addressing that imbalance. However, it is important to note that job/housing balance is not intended to be a requirement to be met by any individual sewer service area amendment.

CONCLUDING RECOMMENDATION

The Regional Planning Commission's evaluation of proposed sanitary sewer service area amendments includes a consideration of whether the amendment is consistent with the regional land use plan, the regional water quality management plan, and the provisions of the *Wisconsin Administrative Code* governing water quality management plans, and whether established procedures for amending sewer service areas have been followed.

- **Consistency with the Regional Land Use Plan (VISION 2050)**

The regional land use plan recommends that, in addition to the infilling and redevelopment of existing urban centers, new urban development within the Region be accommodated through the orderly expansion of existing urban centers in locations which can be readily served by basic urban facilities, including sanitary sewer service, with the overall amount of new urban development consistent with projected growth in population and the economic base. The regional land use plan further recommends preserving primary environmental corridors and that consideration be given to preserving secondary environmental corridors and isolated natural resource areas.

(To be completed following the public hearing.)

- **Consistency with the Regional Water Quality Management Plan**

The regional water quality management plan recommends that new urban development within the Region be provided with centralized sanitary sewer service. The plan designates a wastewater treatment plant to serve each of the urban centers within the Region that are identified in the regional land use plan. In the case at hand, the regional plan recommends that wastewater from the Mequon urban service area be served through the MMSD sewerage system.

(To be completed following the public hearing.)

- **Consistency with Chapter NR 121 of the *Wisconsin Administrative Code***

Chapter NR 121 of the *Wisconsin Administrative Code* governs the preparation of areawide water quality management plans, including the component sewer service area plans. The code requires that sewer service areas be determined in a way that promotes cost-effective and environmentally sound wastewater collection and treatment and that is consistent with 20-year population projections. Under the code, sewer service area plans must identify lands that are to be excluded from sewer service because of physical or environmental constraints or potential adverse water quality impacts.

(To be completed following the public hearing.)

- **Consistency with Procedural Requirements**

As carried out by the Regional Planning Commission, the sewer service area amendment process must begin with a request to the Commission from the appropriate local unit of government or government agency to process the amendment. A public hearing must be held on the proposed amendment; the hearing is jointly sponsored by the Regional Planning Commission and the requesting agency or unit of government. Subsequent to the public hearing, the requesting agency or unit of government must act to approve the amendment as presented at the hearing, approve a modified amendment, or deny the amendment. Only after approval by the requesting agency or unit of government will the proposed amendment be considered for adoption by the Regional Planning Commission as an amendment to the areawide water quality management plan.

(To be completed following the public hearing.)

Given all of the foregoing, it is recommended that SEWRPC formally amend the City of Mequon sanitary sewer service area as documented in SEWRPC Community Assistance Planning Report No. 188, as amended,

in the manner shown on Map 1. It is also recommended that the Wisconsin Department of Natural Resources (WDNR) approve this sewer service area plan amendment and transmit the plan amendment to the U.S. Environmental Protection Agency (USEPA) for certification.

#263493 v3 – Mequon SSA June 2022 Amendment Memo Text
300-3000
KJM/JED/RLR/mid
07/29/22

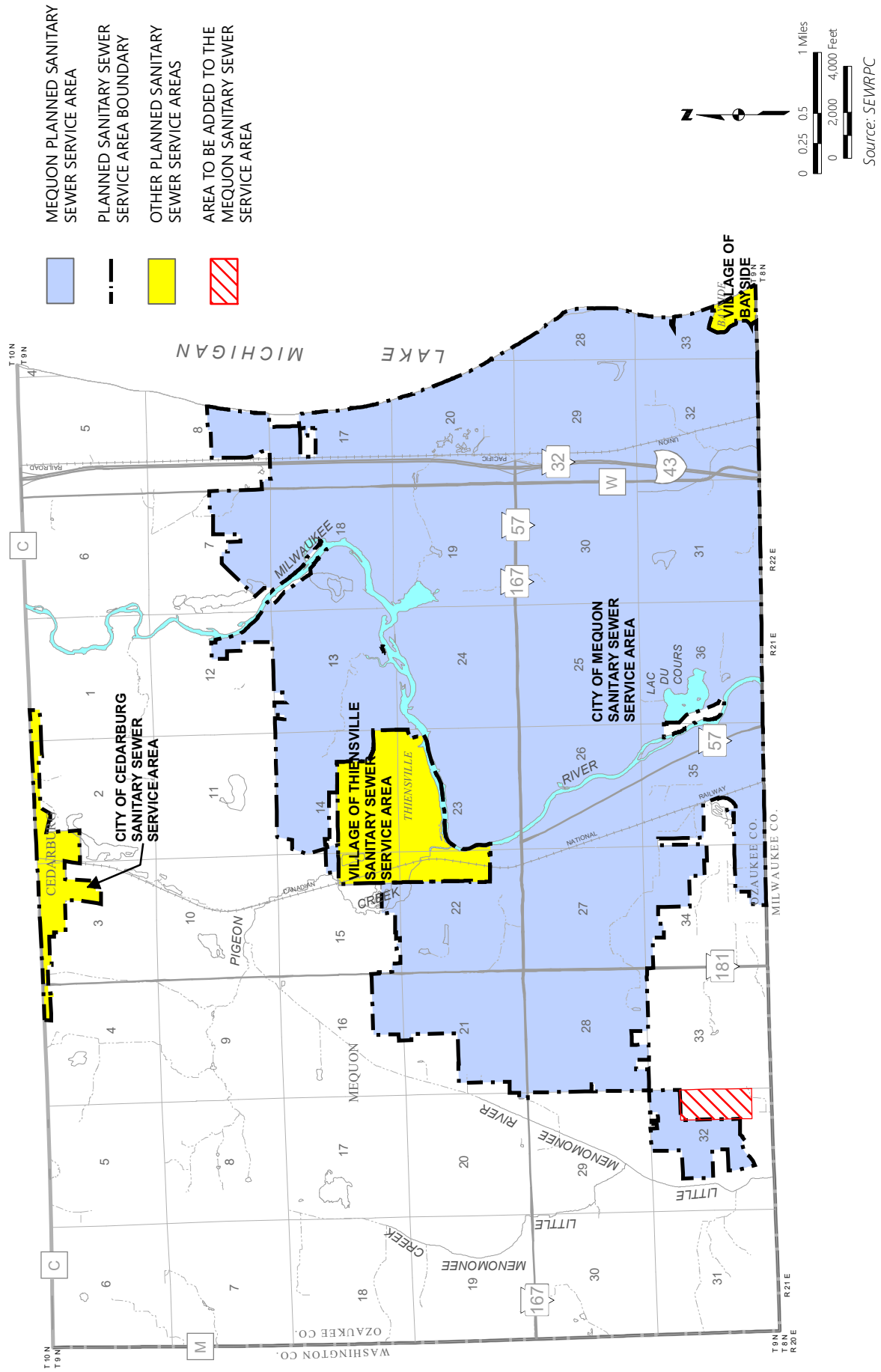
SEWRPC Staff Memorandum
RESPONSE TO REQUEST BY THE CITY OF MEQUON
TO AMEND THE MEQUON SANITARY SEWER SERVICE AREA

August 1, 2022

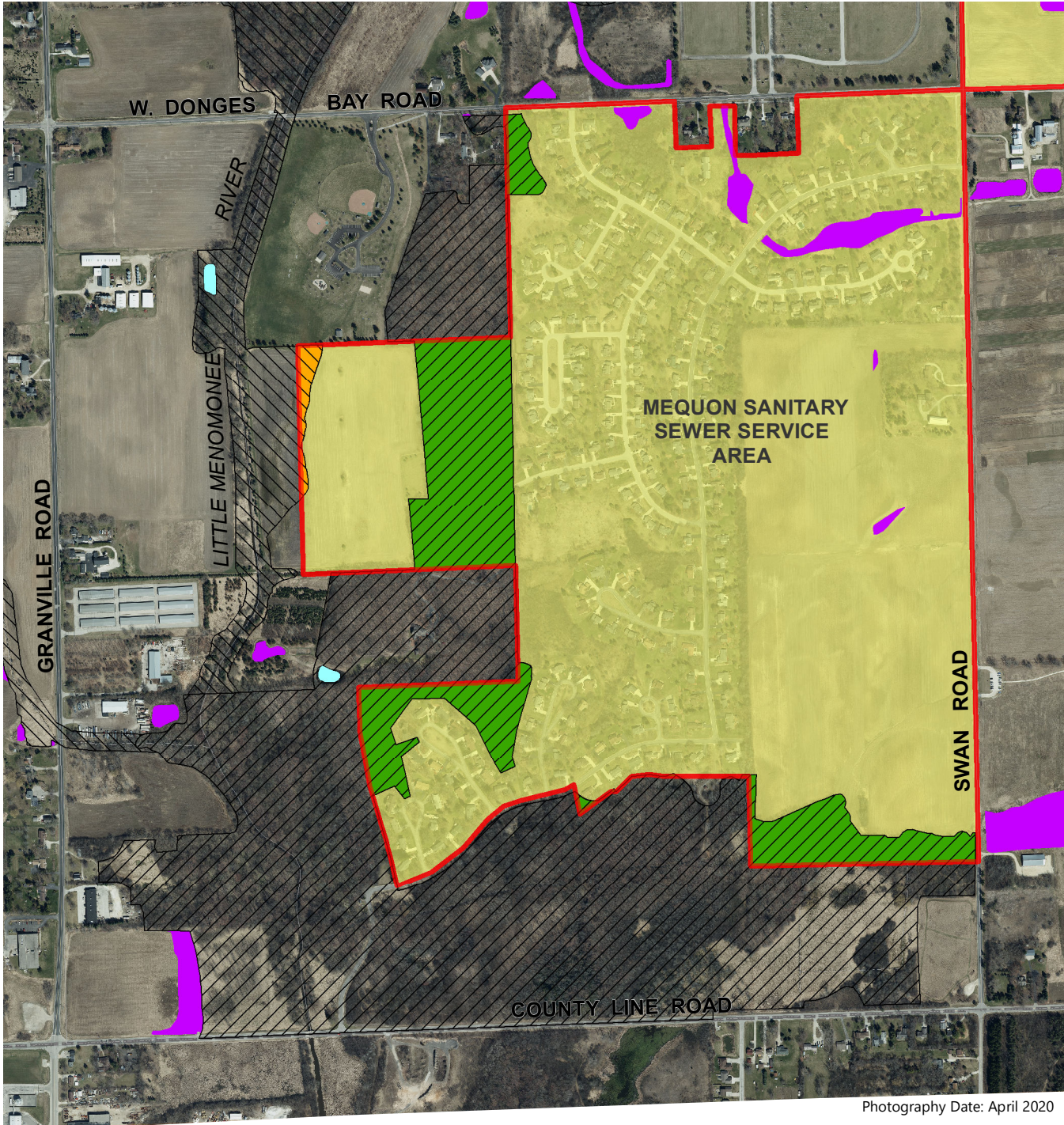
MAPS

Attachment: Exhibit A - Mequon SSA Amendment (Preliminary Draft - August 2022) (RESOLUTION 3974 : Resolution to Adopt Amended Water

Map 1
Proposed Amendment to the Mequon Sanitary Sewer Service Area



U.S. Public Land Survey Section 32
 Township 9 North, Range 21 East



Photography Date: April 2020

RESTRICTIONS ON SEWERED DEVELOPMENT

-  PRIMARY ENVIRONMENTAL CORRIDOR
-  SECONDARY ENVIRONMENTAL CORRIDOR
-  SANITARY SEWER SERVICE AREA BOUNDARY
-  WETLANDS AND SURFACE WATER AREAS LESS THAN 5 ACRES IN SIZE OUTSIDE ENVIRONMENTAL CORRIDORS AND ISOLATED NATURAL RESOURCE AREAS
-  SURFACE WATER WITHIN ENVIRONMENTAL CORRIDORS AND ISOLATED NATURAL RESOURCE AREAS
-  PLANNED SANITARY SEWER SERVICE AREA

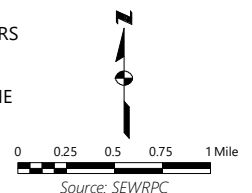


PRIMARY ENVIRONMENTAL CORRIDORS WITHIN THE PLANNED SEWER SERVICE AREA: THE EXTENSION OF SEWERS TO SERVE NEW DEVELOPMENT IS CONFINED TO LIMITED RECREATIONAL AND INSTITUTIONAL USES AND RURAL-DENSITY RESIDENTIAL DEVELOPMENT IN AREAS OTHER THAN WETLANDS, FLOODLANDS, RIPARIAN BUFFERS, AND ADJACENT STEEP SLOPES.



PORTIONS OF SECONDARY ENVIRONMENTAL CORRIDORS WITHIN THE PLANNED SANITARY SEWER SERVICE AREA WHICH ARE COMPRISED OF FLOODPLAINS, WETLANDS, RIPARIAN BUFFER AND/OR ADJACENT STEEP SLOPES: THE EXTENSION OF SEWERS TO SERVE NEW DEVELOPMENT IN THESE AREAS IS NOT PERMITTED.

NOTE: This map replaces a portion of Map 2-9, page 12, of SEWRPC report, Amendment to the Regional Water Quality Management Plan for the City of Mequon, Ozaukee County, Wisconsin, September 2019.



APPENDICES

Appendix A

REGIONAL HOUSING PLAN: JOB/HOUSING BALANCE ANALYSIS

On March 13, 2013, the Regional Planning Commission adopted a regional housing plan for the seven-county Southeastern Wisconsin Region. That plan is documented in SEWRPC Planning Report No. 54, *A Regional Housing Plan for Southeastern Wisconsin*, dated March 2013. The plan addresses a range of housing issues and concerns, including the balance between jobs and housing throughout the Region. The plan includes a generalized analysis of the “job/housing balance” for subareas of the Region. The regional housing plan recommends providing the findings of the job-housing analysis to communities seeking to amend their sanitary sewer service areas, with the intent to inform communities of any job/housing imbalance, and to encourage them to consider addressing the imbalance when they review and update their community comprehensive plan and zoning ordinance. Accordingly, the findings of that analysis are summarized in this appendix.

The job/housing analysis conducted under the regional housing study examined the relationship between jobs and housing that would exist in areas planned by local governments to be served by a public sanitary system, assuming implementation of adopted long-range comprehensive plans for those areas. For each sewerage community, the analysis compared the projected relative shares of lower-cost, moderate-cost, and higher-cost housing¹ with the projected relative shares of lower-wage, moderate-wage, and higher-wage

¹ For purposes of the analysis, lower-cost housing generally includes multi-family dwellings and single- and two-family dwellings at densities of 6,000 square feet or less per dwelling unit; moderate-cost housing includes single- and two-family dwellings at densities of one dwelling per 6,000 to 20,000 square feet for homes constructed prior to 2000 and at densities of one dwelling per 6,000 to 10,000 square feet for housing constructed after 2000; and higher-cost housing includes the balance of the housing stock.

jobs,² respectively. Job/housing imbalances identified under this analysis are indicated on Map A.1. A “lower-cost” job/housing imbalance indicates a community projected to have a higher percentage of lower-wage jobs than lower-cost housing. A “moderate-cost” job/housing imbalance indicates a community projected to have a higher percentage of moderate-wage jobs than moderate-cost housing.

Map A.1 shows the City of Mequon is projected to have lower-cost and moderate-cost job/housing imbalances. The regional housing plan would encourage the City to consider conducting a more detailed job/housing analysis specific to their community, with the community-level analysis considering community-specific wage data and housing price data. The community-specific analysis could also consider the effect of multiple workers in a household, which was not incorporated in the regional-level analysis.

The regional housing plan further recommends that communities which are demonstrated to have a job/housing imbalance following a community-specific analysis consider making changes to their comprehensive plan and zoning ordinance, as appropriate, to enable the provision of housing suitable for the people holding jobs in their community. Actions to address a moderate-cost job/housing imbalance could include modifying the comprehensive plan to permit some single-family residences on smaller lots (1/4 acre or less) and of modest square footage (1,200 square feet). Actions to address a lower-cost job/housing imbalance could include modifying the comprehensive plan to permit some modest multi-family housing (density of about 10 housing units per acre and 800 to 850 square feet per two bedroom apartment).

Additional information about the housing plan and the job/housing balance analysis is available on the SEWRPC website (www.sewrpc.org/sewrpc/housing.htm) or by contacting the SEWRPC staff.

² For purposes of the analysis, lower-wage jobs include those with an average annual wage that is 80 percent or less than the average annual wage for all jobs in the county; moderate-wage jobs include those with an average annual wage between 80 percent and 135 percent of average annual wage for all jobs in the county; and higher-wage jobs include those with an average annual wage that is 135 percent or more of the annual average wage for all jobs in the county.

Appendix A

**REGIONAL HOUSING PLAN:
JOB/HOUSING BALANCE ANALYSIS**

MAPS

Map A.1

Projected Job/Housing Imbalances in Sewered Communities in the Southeastern Wisconsin Region: 2035

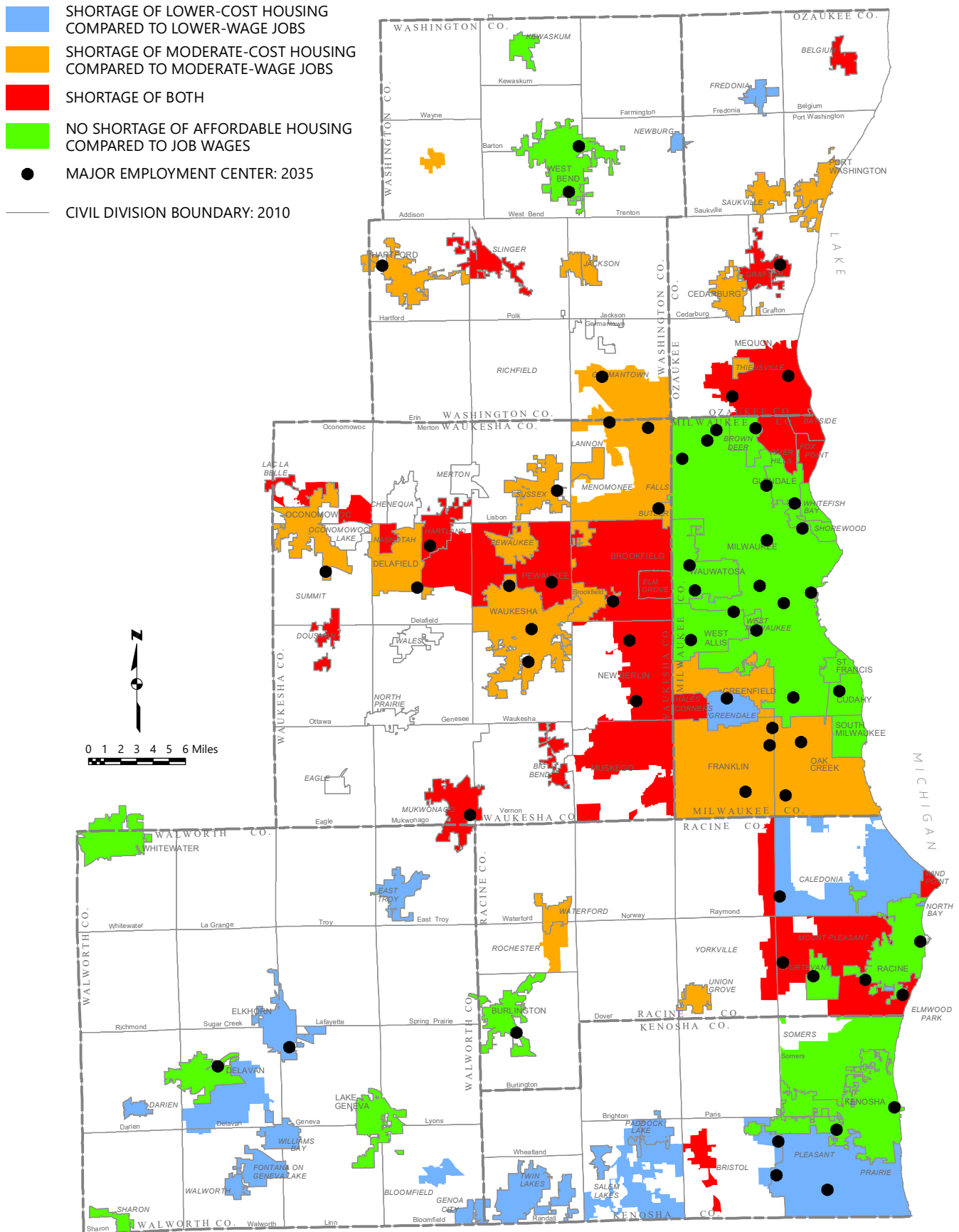


Exhibit B**NOTICE OF PUBLIC HEARING****Mequon Sanitary Sewer Service Area Amendment**

A public hearing for Resolution _____ will be held on August 30th, at 7p.m. at the Mequon City Hall located at 11333 N. Cedarburg Road, Mequon, Wisconsin, for the purpose of receiving public comment on, and reaction to, a proposed amendment to the Mequon sanitary sewer service area. The amendment involves the addition of 85 parcels into the sanitary sewer service area. The public hearing is being sponsored by the City of Mequon and the Southeastern Wisconsin Regional Planning Commission (SEWRPC). A draft staff memorandum describing the proposed sanitary sewer service area amendment, including a map of the area, is on file at the offices of the City and SEWRPC. The sewer service area amendment will be explained at the public hearing.

Following the public hearing, the City of Mequon and SEWRPC will determine whether any changes should be made to the sewer service area as presented at the hearing. The City and SEWRPC will then formally adopt the staff memorandum and forward it to the Wisconsin Department of Natural Resources for use by that Department in reviewing and approving sanitary sewer extensions in accordance with the provisions of Chapter NR 110 of the Wisconsin Administrative Code.

Interested citizens are encouraged to attend the public hearing. Further information about this matter may be obtained by contacting the City or the offices of SEWRPC at W239 N1812 Rockwood Drive, Waukesha, Wisconsin 53187.

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