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**MINUTES  
FOR  
PLAN COMMISSION  
Wednesday, March 12, 2014, 6:30 p.m.  
Waukesha City Hall, 201 Delafield Street, Common Council Chambers**

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**Members Present:** Mayor Jeff Scrima, Ald. Joan Francoeur, Ald. Vance Skinner, Jim Hoppe, Rick Congdon, R.G. Keller, Kevin Larson

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**Members Absent:** None

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**Staff Present:** Doug Koehler, Jeff Fortin

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**Others Present:** Matt Iwanski, Dave Kieffer, Adam McCarthy, Trevor Arnold, Ben Thiel, Ruth Thiel, Jacob Heinzelmann, Adam Artz, Matt McCarthy

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***PLEDGE OF ALLEGIANCE***

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***APPROVAL OF MINUTES*** – Approval of Minutes for the meeting of February 19, 2014.

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**Mr. Larson made the motion to approve the Minutes of February 19, 2014. The second was made by Mr. Hoppe and the motion passed unanimously.**

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***REZONING***

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**330 WISCONSIN AVE** – A request from McCarthy Management, LLC to consider rezoning property at 330 Wisconsin Ave. from B-3 (General Business) to Rm-2 or Rm-3 (Multi-Family Residential).

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Mr. Jeff Fortin presented an exhibit of the parcel in question. Currently there are several residential rooming house units in the building. It was a legal non-conforming use. Since then the B-3 code was changed to not allow rooming house units, but this building has them and they are legal non-conforming. Portions of the building that have street frontage were for commercial uses. Under the B-3 zoning code allows residential uses as long as they are not occupying more than 50% of the ground level. Right now the applicant says he is having trouble leasing the retail space and that is why he is requesting the rezoning. The Rm-3 would allow for the rooming house, and Staff is not in support of that. They considered Rm-2, which would not allow for rooming houses but could do efficiencies. Efficiencies would have to have their own separate restroom facilities and kitchens. Everything else along this stretch on Wisconsin Avenue is zoned for business and there are no residential zoning along this part of the street. Mr. Fortin said the adopted land use plan also has it as commercial. The Central City Master Plan shows this as area C and what they envisioned was smaller scaled buildings, rehabilitation of existing, with a mixed use of residential and commercial uses in those buildings. He presented the proposed floor plan that would be under the Rm-3 zoning. The commercial space along the frontage would be converted into rooms. If they were to go with the Rm-2 zoning, the floor plan would need to be reconfigured and the efficiency size would be increased to meet codes. There would be a restroom and a kitchen in those units. Staff recommends denial of the zoning request from B-3 to either Rm-2 or Rm-3. The concern is spot zoning and everything else in that location is zoned B-3. This is located right in the middle of the B-3 zoning. The comprehensive plan also does not have this slated as a residential area. If the Commission would like to explore this and finds that commercial along that stretch of Wisconsin is no longer feasible, and he thought it was a bigger policy decision, it would require some studies looking at the comprehensive plan and the downtown plan. At this time Staff does not support the rezoning request.

1  
2 Ald. Skinner asked if they know the original use of the building. It looks as if it was intended for residential,  
3 with the way it lays out and with the front porches. Mr. Fortin said the decision to go commercial was about  
4 50 years ago. Prior to that, it was all strictly residential. He did not know if it was a duplex with an upper  
5 and lower. But not it obviously has been chopped up into rooming houses. Ald. Skinner asked what  
6 percentage of the building was used for that purpose. Mr. Fortin said all of it except 50% of the first floor.  
7 Ald. Skinner said but in the past 50 years it has been general business? Mr. Fortin said yes. There have  
8 been some commercial uses. Obviously Associated Bank is to the east and to the west is a combination of  
9 uses with social service agencies. There have been some office uses along this stretch over the years.

10  
11 Mr. Hoppe asked how many rental units are currently in the building and is there any parking. Mr. Fortin  
12 said there is parking surround it along with off-street parking and the applicant can address how many units  
13 are in the building.

14  
15 Mr. Adam McCarthy of S44W22345 Sunridge Drive in the Town of Waukesha. This is his building.  
16 Currently there are 11 boarding rooms and there are 2 commercial, currently zoned units as well. As far as  
17 the parking, there is no on-street parking. The only parking is the city lot, which is half a block down and  
18 wraps around back by Couri Insurance. That is the only parking that there is. His main goal of setting this  
19 up for total residential is just how the structure of the building is. The front of the building is a clear,  
20 residential structure. He was a little confused on the business zoning because this is all residential. Mr.  
21 Fortin said the zoning was put in place several years after these buildings were constructed. To the east  
22 they were reconstructed, such as Associated Bank and a parking garage, etc. But a lot of this was zoned  
23 that way and there are a lot of homes there that are currently non-conforming uses that have not yet been  
24 converting into business since the B-3 zoning were put into place some 50 years ago. Mr. McCarthy said  
25 next door was the old Friendship's and now it is for sale. It is a duplex and clearly residential. Down below  
26 are two more rooming houses. The owner of that was the owner of the one he purchased from. There is a  
27 four-unit on the next street that is 100% residential. Ultimately his goal is to get the whole thing zoned  
28 residential. Talking about the City's Master Plan and keeping things commercial. He has walked through a  
29 personal mentor he has who has done commercial units for a living and he agreed with him that there is no  
30 way this building would be a good commercial unit. There is no window space like the better places  
31 downtown have. There are at least 10 units that are for rent downtown that are in much better positions and  
32 the outside just looks so much better. The location is the biggest thing as well. One of the planning staff  
33 members asked how much money he put into the interior to make it marketable. His answer is that he has  
34 had it listed for, since he has had the property for almost six months and he never even had someone who  
35 wanted to come in to look at it, just based on the location. So the amount of money for renovations wouldn't  
36 really help anyway. Also, the previous owner owned it for over 15 years and he tried the entire time to get  
37 someone in there and was unsuccessful. The front of the building as you go up the stairs and to the right is  
38 the larger commercial unit. That is the clear commercial unit. The far left, that is where the back 50% has  
39 three rooming houses. Inside of it is another residential unit. It has a kitchen inside of it. He was not sure if  
40 it was done incorrectly but it is clearly residential. That is the structure of it. The whole right side going back  
41 is an empty space and it is not set up for residential. He, too, would rather have commercial tenants. They  
42 are longer leases and they are less trouble. But it just is not a viable option. He thought the City's Master  
43 Plan had a goal of bringing business downtown he thought it would be better to have more people to spend  
44 money. He will make the units really nice and get good, quality tenants.

45  
46 Mr. Hoppe asked what the rates on these units are and how many would like to end up with if this were to  
47 be approved. Mr. McCarthy said today there are 11 rooming units and they are set up on a lease for  
48 (inaudible). Nobody pays him weekly. More than half pay him monthly. It is about \$90 a week on average  
49 with all utilities included, including water, heat, and electric. So it is about \$400 per month per unit. He  
50 offered two different zonings – Rm-2 and Rm-3. Ideally he would prefer adding more rooming houses  
51 because that is what the building is, a rooming house. Adding more to it would make more sense. He

1 understood there were stereotypes with that. He said he is willing to work with them and make this work out  
2 somehow. That is why he was offering both zonings. If they went with the rooming house way, he could  
3 add five more rooms. Pricing would be the same. Another thing is the types of people are not people who  
4 stay for a short amount of time. He has someone who has been there for 10 years and a couple who have  
5 been there for 5. It really is an apartment building but they share a kitchen and a bath.

6  
7 Ald. Skinner asked how long he has had it and Mr. McCarthy said he purchased the property in September.  
8 Ald. Skinner said knowing the history, was it his intent to purchase the property and then convert it to what  
9 he is doing today? Mr. McCarthy said no. He thought the property was not being used to its full potential.  
10 This is his first property that has a commercial aspect to it and he learned a lot from it. Commercial is not  
11 easy to get people in. Ald. Skinner thought this was a problematic spot because it is a very visible  
12 intersection to the downtown and it is right across from the library and across from a park where a lot of kids  
13 play and a lot of activity happens. They are being asked to take a leap of faith and ultimately allow a  
14 conversion of this to a different zoning to allow what the owner considers it to be a more problematic use.  
15 Mr. McCarthy said getting a good solid commercial tenant in there would be great, but it is a very difficult  
16 task, especially the way the building is set up and the location of it. If it was People's Park and there is  
17 upstairs and residential, that is a clear business. He did not know what this business could do. It can't be a  
18 storefront, it can't be a restaurant, and it can't be a bar. There are no options. A storage unit? Maybe?  
19 That is kind of junky. He has run out of ideas. Ald. Skinner said there are other properties near this. There  
20 are a couple attorney offices on Grand that are in residential structures without the large window fronts. He  
21 has concerns about this but appreciates the additional information.

22  
23 Mr. Matthew McCarthy of 2260 Wren Lane said he has lived here for 11 years. He is the applicant's father.  
24 He has gone through the area quite a bit to view this problem as his son tries to transition it. Whether it is  
25 zoned that way or not, he wanted to re-emphasize that from that corner, that piece of property, the next two  
26 blocks to the north coming out to St. Paul is all residential on that side of the street. There are two buildings  
27 and then the Maple Street parking lot, then there are all residences. He was not saying that they couldn't  
28 perhaps put an attorney's office or a dentist office, depending on the zoning, but they are all residences.  
29 Whether they fall under the zoning or not, for all types of purposes it is a residential area. He went through  
30 there today and within the two blocks going to the north and towards the downtown there were no less than  
31 8, probably 10, nice storefronts with big glass display areas. That was driving around for two minutes.  
32 There are far better business locations in the area than this presents. This is located across from the park  
33 and the library and people want to go enjoy the park. This rooming house obviously isn't families, but his  
34 point is that he didn't think there are more problems. You have fewer problems with any business, most  
35 business in general. But he did not think they would have an excessive amount of problem if they put in a  
36 few more rooming houses in this building. With more people, it just fits with the area. Businesses go to the  
37 east. Straight to the west are all residences. He thought to say this is how it is zoned, and apparently that  
38 is the case, he thought it was short sided when all those buildings are residences. They are nice residences  
39 and he thought this would be an improvement to what exists there at this time.

40  
41 Mr. Adam McCarthy said one of the ideas he had, which is a little outside of the thinking, to make Waukesha  
42 better overall he would be willing to open up his books for five years and reinvest every penny back into the  
43 building, to make it better and a better spot for Waukesha. Some of these buildings can chip and paint.  
44 Making it better is something he is willing to do.

45  
46 Mr. Hoppe asked how many of the current tenants are working. Mr. McCarthy said at least 8 out of the 11  
47 with 2 of them being retired and getting social security. One person is "sitting and living off of free money."

48  
49 Mr. Keller asked how long ago was this rezoned and Mr. Fortin said about 50 years ago. It was determined  
50 at that time that they wanted to expand the downtown to the south and that is why it was rezoned. Mr.  
51 Keller said so that probably pre-dates the current occupants of the housing, whether it is single-family or

1 multi-family along that entire strip. So it wasn't like any of the current residents were consulted when the  
2 rezoning occurred. Mr. Fortin said if you look at the commercial development there it is about 40 or 50  
3 years old with office buildings and things like that. It probably coincided with the development. It was the  
4 idea to extend the commercial further down Wisconsin. Mr. Keller said a concern is that the applicant has a  
5 perception that this building doesn't work very well for retail, meaning for business or small insurance or that  
6 kind of thing. A lot of the houses on the north side of the block are clearly residential in character. Yet  
7 probably in some historical zone it doesn't allow it to be modified greatly. So you are kind of stuck between  
8 a rock and a hard place. What do you do? The zoning is in place but you have a situation where under  
9 current retail criteria, big glass, parking next to the building, easy access, it fails miserably against what  
10 most people understand retail to be. So what do you do? Mr. Fortin said that the Master plan has this as  
11 mixed use but if residential is something the Commission and Council wants to explore they need to direct  
12 staff to look into that. We feel that changing the zoning to residential is not something where we should be  
13 doing spot zoning on a case-by-case basis. Any desire to look at zoning needs to start from the ground up  
14 and looking at what is out there, and determine what they want to be residential and what form does that  
15 take instead of doing it on a case-by-case request. Mr. Keller urged the City Planning Department to  
16 consider looking at the housing and building stock and compare it to the zoning and see how they work  
17 together. In some cases, the buildings just very easily convert into some other uses. However there are  
18 cases where an existing building just don't, whatsoever. If they maintain the zoning without flexibility they  
19 basically are forcing people into a situation where they can't use 50% of the ground floor based on how the  
20 code reads. So they are bringing a hardship on every owner in that location because of the nature the way  
21 the City grew up. Mr. Fortin said with the historic parts of Wisconsin Avenue, those even came back to the  
22 zoning. The zoning was put in well before the City had a Landmark's Commission and paid attention to  
23 historic structures.

24  
25 Mr. Congdon said he doesn't necessarily disagree with the potential use but take a more holistic view of the  
26 whole area. Is that correct? Mr. Fortin said it seems like they are jumping ahead by rezoning just one  
27 parcel without looking at the whole area. Mr. Congdon agreed with that. Mr. Fortin said downtown there is  
28 a concentration of rooming houses, which is why the zoning districts in and around downtown no longer  
29 allow rooming houses as a conditional use. He thought changing parts of it to Rm-3 to allow rooming  
30 houses is going backwards from where they want it to be without having all rooming houses concentrate to  
31 just downtown. Mr. Congdon asked where they go from here. Do they want to look at the whole thing and  
32 give it more study, then what is the next step? Mr. Fortin said Staff's recommendation is to clearly not  
33 approve the zoning, but if it is something the Council directs for them to look at this area, they can clearly do  
34 that, but our Central City Master Plan has this as mixed use.

35  
36 Ald. Francoeur said when she became a Commissioner she spoke with the City Attorney's office about what  
37 is labeled ex parte about a communication between an applicant and a Commissioner and what that meant  
38 is if you were talking with somebody – and she has. She spoke with the applicant twice and about the  
39 process and what happens when this type of request is brought before the Commission and who gets to  
40 speak, etc. One of the timelines here that is challenging is that the zoning changed, and some of the  
41 housing stock has been labeled non-conforming use. Can Staff explain what that means and how it applies  
42 to this? Mr. Fortin said when the area was rezoned there clearly was still a mix of residential-only uses in  
43 this area. Even though the zoning got changed, property owners have vested rights to continuing to use the  
44 property as it was previously zoned, in this case residential. That is what makes the residential legal non-  
45 conforming. They can continue to use the property as a residential district unless it is vacated for over a  
46 year or if they put up a new building. There are still rights but when you start changing things, then you have  
47 to adhere to the code. When this changed to a rooming house, that is where the 50% rule kicked in and that  
48 is why they were required to put in the commercial spaces. It probably got converted from maybe a duplex  
49 or an apartment building into a rooming house. At that time they were probably required to install the 50%  
50 frontage of commercial space to meet the zoning ordinance and now he wants to go backwards and make it  
51 all residential again but that is not permissible under the B-2 zoning.

1 Ald. Francoeur said she remembers some of Staff and another applicant came to this Commission and had  
 2 a very intriguing plan for a building that also had the same zoning and even though the plan was supported  
 3 by the Commission because the zoning didn't allow it, it was denied. If this Commission were to deny this  
 4 because it is a zoning request, it will go before the Council. Mr. Fortin clarified that is correct. She said  
 5 even though it might go with a denial recommendation at that time, the Common Council, if it supported the  
 6 denial could still direct that there be a wider examination of this issue, which she thought is the place where  
 7 that would and should occur. Mr. Fortin said the only way we would entertain looking at this would be if there  
 8 was direction from Council to start looking at this area. We are now going on what the zoning is based at  
 9 and what the land use plan says right now and that does not support this request.

10  
 11 **Ald. Skinner made the motion to deny the rezoning request and Mr. Congdon offered the second.**

12  
 13 Ald. Skinner said he was not necessarily opposed to this from the perspective of having is residential.  
 14 Clearly the building looks like it was residentially. Personally, he lived in a building that looked like this when  
 15 he went to college. He thought this was a missed opportunity here is the fact that this is right across from a  
 16 park, near entertainment, there is a band shelter with all kinds of events – there are all kinds of reasons here  
 17 where the thought there was potential for trading up. Actually going from an Rm-2 type status where you  
 18 could get higher rents and have a different type of unit verses the rooming houses there today. He would be  
 19 looking at all of those things. While he certainly is not supporting this tonight and made the motion, don't  
 20 give up.

21  
 22 Ald. Francoeur thought they might have a sequence issue here amongst other things, and that is that the  
 23 zoning was in place, the property was purchased, and now there is a request to define spot zoning, which  
 24 she thought nobody was usually in favor of. In addition to which the Council and the Plan Commission in  
 25 the past years has had a lot of dialogue about rooming houses and what is allowed and what is desired.  
 26 She thought she would support the motion because she did not believe it was good public policy to choose  
 27 one parcel and try to establish a direction on that. It is better to establish a direction and see how the  
 28 parcels conform or what they need in order to exist. She will support the motion and hopes they will have a  
 29 productive discussion on the Council floor.

30  
 31 Mayor Scrima agrees with Ald. Skinner. This property has a lot more potential and he hopes the applicant  
 32 pursues that.

33  
 34 **The motion passed unanimously.**

35  
 36 ***SITE PLAN & ARCHITECTURAL REVIEW***

37  
 38 ***FINAL***

39  
 40 **EATON COOPER POWER SYSTEMS BUSINESS – 2300 BADGER DR.** – A request from The Consortium  
 41 ae, LLC and Eaton Cooper Power Systems to consider revisions to the existing building and a 51,774  
 42 square foot addition at 2300 Badger Dr.

43  
 44 Mr. Jeff Fortin said this was before them at the last meeting and preliminary plans were approved. They  
 45 were asked to do additional work on the landscaping plans. This is located on the west side of the City on  
 46 Badger Drive, just north of Sunset. The property is zoned M-2, general manufacturing. The proposal is a  
 47 52,000 square foot addition and a conversion of 6,000 square feet of existing, unused warehouse space into  
 48 manufacturing space for the facility. At the last meeting they asked for more landscaping a little more south.  
 49 They are proposing plantings beds but the employee entrances and increasing landscaping around the  
 50 parking lot, as requested. On the north parking lot there were some cross-hatched areas shown and it was  
 51 suggested to make some landscaped islands out of those. Those are now proposed at the entrance where

1 the employees come in as well as at another entry. There were no necessary changes to the elevations.  
2 New metal panels were proposed to exist what is currently there. There is brick along the bottom of the  
3 building. There were Engineering concerns with the stormwater. (Please see Department Comments at the  
4 end of the Minutes.) The applicant worked with the Engineering Department and they are finalizing those  
5 plans to show the existing conditions overall. As far as the overall stormwater plan, they are proposing a  
6 facility north of the warehouse between the parking lot and the building. Given the location of this, there is a  
7 requirement that the high water elevation not be within two feet of the first floor elevation of the building.  
8 They have seen this situation before with Broadway Commons. So they will be going for a variance with the  
9 Board of Zoning Appeals in April. So they are asking for final approval from the Plan Commission,  
10 contingent upon the variance from the Board of Zoning Appeals. It is just a matter of process in the code  
11 because of the proximity to the building to be stormwater ponds. Given the way this is laid out, there is no  
12 other place for the stormwater facility to be place. So it is the most logical spot. With these comments, Staff  
13 recommends final approval subject to any Department Comments along with receiving approval from the  
14 Board of Zoning Appeals.

15  
16 **Mr. Keller made the motion for final approval along with Staff comments and with receiving approval**  
17 **for the variance from the Board of Zoning Appeals. Mr. Larson offered the second.**

18  
19 Ald. Francoeur said Staff is happy with the additional landscaping and she thought it was nice that the  
20 applicant was responsive to the request they made the last time they were before the Commission. It is  
21 definitely nice that they are expanding their business in the City.

22  
23 **The motion passed unanimously.**

24  
25 **OTHER**

26  
27 **ZONING CODE AMENDMENT – 22.21** – A request from the Community Development Department to  
28 consider approving revisions to §22.21 to comply with state statutes.

29  
30 Mr. Jeff Fortin said last year the State of Wisconsin passed Act 20, which included some language about  
31 local municipality's ability to regulate cell towers. Basically the new legislative has stripped most of their  
32 authority over cell towers and has severe limits on what we are allowed to do. Act 20 established two types  
33 of cell towers – Class 1 and 2. It still allows cities to regulate cell towers, but they have very limited capacity  
34 with how to do that. It prohibits imposing additional conditions, prohibits denials based on considerations  
35 like aesthetics, zoning, and property ownership, such as requiring that they locate on government owned  
36 property). The new law became effective January 2<sup>nd</sup> of this year and our ordinance is invalid and cannot be  
37 enforced. The City Attorney has drafted a new ordinance that meets the State statutes that Staff would like  
38 to pass. On new towers, Class 1 code locations, they can still have a conditional use; however, they must  
39 be listed as conditional use in all locations and they cannot exempt say single-family residential anymore.  
40 The Plan Commission will still review new towers but they cannot place additional conditions beyond what is  
41 allowed by the new State statutes. Class 1 co-locations, conditional use are substantial modifications  
42 defined as an increase in the height of the structure by 20 feet. If a tower is 200 feet higher or less or 10%  
43 for those over 200 feet or in modification of the ground equipment area to more than 2,500 square feet.  
44 Class 2 co-locations, which is just putting in new antennas, new equipment on the ground without expanding  
45 the area, they can no longer have a conditional use. In the past they have come before the Plan  
46 Commission numerous times with new ground equipment, replacing antennas with new technology – those  
47 are now done administratively by building permits and will not need to be reviewed by the Plan Commission.

48  
49 Mr. Fortin said he included some information on the Commissioner's desks about the law. They cannot  
50 require things like environmental testing, frequency monitoring, or any other sort of compliance measures.  
51 They cannot enact an ordinance prohibiting placement of cell towers in a particular location or zoning

1 district. There cannot be reoccurring fees for cell towers. They have no authority to limit their height, as  
2 long as it is within 200 feet. They cannot disapprove projects based on aesthetics or location or the City  
3 cannot give them alternatives. Basically they pick a location and meet the statutory requirements, it has to  
4 be approved. They cannot require fall zones that exceed what we ask for other structures as long as they  
5 submit engineering reports stating that the tower can collapse upon itself. It also established fee maximums  
6 and what they can charge for them for permits and approvals. Act 20 established a uniform application  
7 process that all cities must follow. Name, contact information, location of the tower or existing facility for co-  
8 location where the facility is going, construction plan (if new tower, explain why the location was selected  
9 and why co-location is not useable), exemptions for co-location coverage and if it is technically infeasible or  
10 (inaudible) to co-locate. If that information includes all the items, it is deemed under State statutes and must  
11 be reviewed by the City. Staff recommends approval of the amendment.

12  
13 Ald. Skinner said so this kind of reads like a telecommunications lobbyist dream. This is the best they can  
14 do. Mr. Fortin said that is correct and the City Attorney has reviewed it. Staff believes it was written by a  
15 cell phone tower industry.

16  
17 Mr. Congdon said he was hearing very loud and clearly that they have no choice on this and Mr. Fortin said  
18 yes.

19  
20 Mr. Larson said is there an understanding or feeling from any other City in the State of Wisconsin of having  
21 a problem with this? Mr. Fortin said River Hills might consider legal action against it. But as it stands right  
22 now, it is law. He did not know if River Hills even has any commercial property but they are considering  
23 legal action. He was disappointed in the language and that it ties their hands to any changes of cell towers  
24 in the City. It is very restrictive language and they have done a nice job over the years to try to control this  
25 type of thing. He thought it was a slap in the face and he will vote against this.

26  
27 Ald. Skinner said this will go before the Council, regardless. They have had situations like this where they  
28 have been told to vote one way. Essentially, it will go before the Council, and Mr. Fortin said yes.

29  
30 Mr. Congdon said in looking at this, in case the City of Waukesha ever wanted to take legal action against  
31 this and they are positively voting for it, puts them in a unique situation. It ties their hands in the future. Mr.  
32 Fortin said he could have the City Attorney consult them and find out the ramifications that has. But the  
33 ordinance right now is unenforceable and if they don't pass this they don't follow State statutes. They have  
34 already recently received co-location applications that have been administratively switched to Building  
35 Permits as opposed to Conditional Uses. Mr. Congdon said it seems that if they vote under protest with  
36 this, it is a debt that you dispute.

37  
38 Mr. Larson said for the record, he wanted Mr. Fortin to repeat the restrictions to the City. Mr. Fortin  
39 repeated the restrictions. Mr. Larson said this is totally restrictive. In any of the neighborhoods, he would  
40 hope there could be some kind of discussion. If they wanted to put one in his front yard, he sure hoped he  
41 could come before this Commission and talk about it. He encouraged them to vote no and see where this  
42 goes, but he thought they were on a slippery slope. This is way too restrictive.

43  
44 Ald. Francoeur said she appreciates the advice given. She has in the past has voted a reluctant yes and  
45 that is what she will do this evening because of the nature of the regulation that has been given to them. It  
46 is not that they won't still have a voice and be able to register. She understood Mr. Congdon's caution and  
47 they perhaps might want to make a record that says this is how they felt from the beginning. But she will be  
48 a reluctant supporter of this.

49  
50 **Mr. Congdon made the motion to approve the revisions to the State Statute in that do so under**  
51 **protest. Ald. Francoeur offered the second.**

1  
2 Mr. Congdon said the motion he made and what is before them are really not at all the best for the City.  
3 There has been no hearing on this whatsoever at the local level except to apply the State statutes. He  
4 understood that when there is a statutory mandate from Madison, sometimes they must follow it. But he  
5 wanted to do so more than just reluctantly – he wanted to under protest and so it is on the record and does  
6 not bind them in the future.

7  
8 Ald. Skinner said it is interesting and they have been in scenarios like this before and they have the City  
9 Attorney working for them and giving their opinions. But he certainly cannot support this. It does remove  
10 the local control and it gives the keys to the kingdom to the telecommunications industry and it does not give  
11 the citizens of Waukesha a voice with what is going to happen here. He is disappointed that this came from  
12 Madison. He will not be supporting it.

13  
14 Mr. Larson said he will be voting no, realizing that his vote no will be not in favor of this. Some people may  
15 interpret his no as being in favor of cell towers. His no, based on the language he was hearing from the  
16 other Commissioners is a defiant no on this language and approving it. He wanted his no to be interpreted  
17 correctly.

18  
19 Mayor Scrima also will be protesting. He believes government works best at the local level and not from  
20 Madison and Washington.

21  
22 Mr. Congdon clarified that if they are voting yes on the motion, they are still protesting and do so under  
23 protest and it gives a legal stance in the future if they challenge it. If they vote no to this, then they would be  
24 out of compliance with the State Statute.

25  
26 **The motion passed with three yes votes (Congdon, Francoeur, Hoppe) and four no votes (Keller,**  
27 **Skinner, Scrima, Larson). This item is declined.**

28  
29 Mr. Fortin said this will go before the Common Council without Plan Commission support.

30  
31 ***ADJOURNMENT***

32  
33 **Mr. Larson made the motion to adjourn the meeting and Ald. Francoeur offered the second. The**  
34 **vote passed unanimously.** The meeting adjourned at 7:30 p.m.

35  
36 Respectfully submitted,

37  
38  
39  
40 Jennifer Andrews  
41 City Planner &  
42 Secretary to the Plan Commission

43  
44 plmn140312

45  
46 **ENGINEERING DEPARTMENT COMMENTS**

47  
48 330 WISCONSIN AVE – A request from McCarthy Management, LLC to consider rezoning property at 330 Wisconsin  
49 Ave. from B-3 (General Business) to Rm-2 or Rm-3 (Multi-Family Residential).

- 50     • No comment.

51



1 EATON COOPER POWER SYSTEMS BUSINESS – 2300 BADGER DR. – A request from The Consortium ae, LLC  
2 and Eaton Cooper Power Systems to consider revisions to the existing building and a 51,774 square foot addition at  
3 2300 Badger Dr.

#### 4 5 General

6 The following items should be submitted:

- 7 • Property Survey showing existing easements. Verify if any existing easements are located on the property  
8 that will affect the location of the proposed improvements. A title search should be completed to verify if  
9 existing easements are present.
- 10 • Storm water facility maintenance agreement per Section Chapter 32.12
- 11 • Applicable fees per Chapter 32.07(b). The Engineering Division requires any Bonds or Agreements required  
12 by the Plan Commission and Council or Chapter 32.08(c). Development fees will be owed to the City for this  
13 project.
- 14 • Chapter 32.07(b)(2): Once all submittal items are completed, submit all items listed in sub.(b)(1)(A)-(G) in  
15 digital form for City filing.
- 16 • Permits will be needed for the project. Provide copies of approved project permits to the City for filing.  
17 Permits that are needed include but are not limited to:
- 18 • Wisconsin Department of Natural Resources NR 216 N.O.I. Permit (if over 1 acre of disturbance).
- 19 • City of Waukesha Erosion Control Permit.
- 20 • In accordance with Wisconsin Administrative Code A-E 2.02(4): Each sheet of plans, drawings, documents,  
21 specifications and reports for architectural, landscape architectural, professional engineering, design or land  
22 surveying practice should be signed, sealed, and dated by the registrant or permit holder who prepared, or  
23 directed and controlled preparation of, the written material.

#### 24 25 Existing Conditions C-2

- 26 • Chapter 32.10(c)(18): Location and descriptive notes for existing and proposed structures, including storm  
27 sewer pipes, culverts and existing utilities should be shown. Elevations and pipe sizes should be listed.
- 28 • Two, oval arch 15"x24" corrugated metal pipes are shown to drain the ditch area east of the northeast  
29 building that is shown. The extent of the pipe to the ultimate outfall location should be shown to verify any  
30 changes in pipe sizes or other connected pipes to this system. Any additional drainage to this system will  
31 have to be included in the storm water modeling.

#### 32 33 Site Dimensional Plan C-3

- 34 • A proposed pipe is shown from the building to the north bio-retention facility. Please label the pipe as a gutter  
35 downspout pipe, if applicable.
- 36 • Truck turning templates should be shown to verify the driveway layouts are adequately sized.

#### 37 38 Site Dimensional Plan C-4

- 39 • A proposed pipe is shown from the building to the north bio-retention facility. Please label the pipe as a gutter  
40 downspout pipe, if applicable.
- 41 • Truck turning templates should be shown to verify the driveway layouts are adequately sized.
- 42 • The roof downspout connection to the bio-retention facility should be shown.

#### 43 44 Grading, Erosion Control & Paving Plan C-5

- 45 • Note 5 of the Construction Site Sequencing states, "Bio retention area shall be excavated and used as a  
46 sediment trap." Wisconsin DNR Technical Standards recommend routing the storm water around the bio-  
47 retention areas and through sediment traps until they are stabilized.
- 48 • The elevation of the spillway in the south bio-retention area should be listed.

#### 49 50 Grading, Erosion Control & Paving Plan C-6

- 51 • Note 5 of the Construction Site Sequencing states, "Bio retention area shall be excavated and used as a  
52 sediment trap." Wisconsin DNR Technical Standards recommend routing the storm water around the bio-  
53 retention areas and through sediment traps until they are stabilized.
- 54 • Chapter 32.10(d)(6)(H)(i): Flows generated by the 100-year, 24-hour design storm under planned land use  
55 conditions may exceed the design capacity of conveyance systems, but should not come in contact with any

1 buildings. The lowest elevation of the structure that is exposed to the ground surface should be a minimum of  
 2 two (2) feet above the maximum water elevation produced by the 100-year, 24 hour design storm. The  
 3 buildings on this property or adjoining properties should be set back at least 40 feet horizontally from the  
 4 100-year high water elevation to any storm water facility or drainage swale on this property. The 100-year  
 5 high water elevation of Bio retention area 1 is 37.88 as listed on sheet C-10. The lowest first floor elevation is  
 6 listed as 38.92. The vertical separation is only 1.04 feet.

- 7 • Provide spot grades at emergency spillway location.
- 8 • Chapter 32.10(d)(6)(B) as referenced by Chapter 32.09(c)(17): Site grading should minimize adverse  
 9 impacts on adjacent properties.
- 10 • Label the overland flow path route location for this area and through the site. An additional sheet will be  
 11 needed.

12

13 Utility Plan C-7

- 14 • Computations for all storm sewers should be provided and in accordance with the State of Wisconsin  
 15 Department of Safety and Professional Services Standards.
- 16 • The existing building has a sanitary sewer lateral connecting the City’s sewer main. Please provide a sewer  
 17 lateral video to City for review and approval. Contact the City Engineering Department for the video format. If  
 18 lateral maintenance is needed, then the lateral improvements may need to be included as part of this project.  
 19 The lateral pipe and connection to the main may need to be lined or relayed to reduce infiltration into the  
 20 City’s sanitary sewer system or improve the structural integrity.

21

22 Utility Plan C-8

- 23 • Computations for all storm sewers should be provided and in accordance with the State of Wisconsin  
 24 Department of Safety and Professional Services Standards.
- 25 • The existing building has a sanitary sewer lateral connecting the City’s sewer main. Please provide a sewer  
 26 lateral video to City for review and approval. Contact the City Engineering Department for the video format. If  
 27 lateral maintenance is needed, then the lateral improvements may need to be included as part of this project.  
 28 The lateral pipe and connection to the main may need to be lined or relayed to reduce infiltration into the  
 29 City’s sanitary sewer system or improve the structural integrity.
- 30 • The size of the trench drain should be listed.

31

32 Construction Details C-9

- 33 • No comments.

34

35 Construction Details C-10

36 The design of the bio-retention facilities should follow Wisconsin DNR Technical Standard 1004. The designs should  
 37 include:

- 38 • Underdrain
- 39 • Follow cross-section detail
- 40 • Utilize adequate ponding outlet restrictor height to encourage infiltration.

41

42 Storm Water Management Plan

- 43 • The spillway elevation shown in the Plan on Page 5 for the northeast basin appears to be incorrect. Please  
 44 verify.
- 45 • Chapter 32.11(a)(2): The 2-year storm design rainfall depth should be 2.7 inches. Page 2 of the storm water  
 46 plan states that 2.4 inches was used for the design.
- 47 • Chapter 32.10(d)(6)(B) as referenced by Chapter 32.09(c)(17): Site grading should minimize adverse  
 48 impacts on adjacent properties.
- 49 • The open channel 100-year high water elevation should be provided along the south lot line.
- 50 • Chapter 32.10(d)(6)(H)(i): Flows generated by the 100-year, 24-hour design storm under planned land use  
 51 conditions may exceed the design capacity of conveyance systems, but should not come in contact with any  
 52 buildings. The lowest elevation of the structure that is exposed to the ground surface should be a minimum of  
 53 two (2) feet above the maximum water elevation produced by the 100-year, 24 hour design storm. The  
 54 buildings on this property or adjoining properties should be set back at least 40 feet horizontally from the  
 55 100-year high water elevation to any storm water facility or drainage swale on this property.

- 1 • The existing southwest pond should be included in the storm water analysis.
- 2 • The existing south ditch, located north of the south lot line, should be included in the storm water analysis
- 3 and modeled as a pond.
- 4 • Additional grading to create storm water capacity storage onsite or other modifications will be needed if the
- 5 Ordinance requirement is not met or adjacent properties are being inundated during the 100-year event.
- 6 • Provide spot grades at emergency spillway locations for the south ditch and southwest pond. Show the
- 7 emergency overland flow route through the site and through this area.
- 8 • Chapter 32.10(e)(6): Location and dimensions of proposed drainage easements should be shown.
- 9 • Storm water management facilities will need to be located in a storm water management easement. The
- 10 storm water agreement should comply with Section 32.12. A copy of the City template can be sent to the
- 11 Designer for use.
- 12 • Chapter 32.10(C): Detailed cross sections and profiles of each BMP showing all critical design elements,
- 13 side slopes, structures, soil profiles and applicable elevations, including seasonal high water table. Review if
- 14 anti-seep collars are needed.
- 15 • The pre-development and post-development basin maps should include the entire site owned by the
- 16 Applicant and full tributary areas.
- 17 • Please verify if tail water elevations should be used in pond designs.
- 18 • Two soil borings are needed in each storm water facility per DNR Technical Standards.
- 19 • The emergency overflow should be sized to handle flows if the primary outlet structure is plugged.
- 20