

**CITY OF LA CROSSE, WISCONSIN
CITY PLAN COMMISSION
REPORT
September 2, 2014**

➤ **AGENDA ITEM – PC2014-09-02-05**

AN ORDINANCE to amend Subsection 15.02(B) of the Code of Ordinances of the City of La Crosse transferring certain property from the Residence District to the Local Business District allowing for a theatre and salon at 1353 Avon Street.

➤ **ROUTING: J&A Committee**

➤ **BACKGROUND INFORMATION:**

The property, which houses the Muse Theatre is located at 1353 Avon Street, and is depicted in **MAP PC2014-09-02-05**. The applicant is requesting a change in zoning, to allow a full service salon to be operated in the building as well. Proposed hours for the salon are Tuesday through Saturday 10:00 a.m. to 6:00 p.m. The proposal is for up to four stations and two sinks. This would have the potential of having four or more vehicles parking on site during open day's/hours. Current hours for the theatre are Friday and Saturday, 7:30-10:00 p.m. Currently there is a conditional use permit on the property to allow for the theatre use, but it does not allow for the salon, thus a rezoning to local business would be needed. If the property is rezoned to local business, then the applicant will need to apply to the Board of Zoning Appeals for a waiver of the on-site parking requirement.

The application states that the salon is a short term use, probably only being operated for three more years. Discussions with the owners indicated that they would like to remodel the upstairs and live there in the future.

There is currently an Order to Correct to cease operation of the salon. As of August 29, 2014, the salon is still in operation.

➤ **GENERAL LOCATION:**

1353 Avon Street, across from Logan Middle School.

➤ **RECOMMENDATION OF OTHER BOARDS AND COMMISSIONS:**

- J&A recommended adoption as amended: requiring covenant and reverter clause.
- Common Council referred.

➤ **CONSISTENCY WITH ADOPTED COMPREHENSIVE PLAN:**

The future land use map indicates this area as single family residential, thus this rezoning is not consistent. In addition there is a hard case for public benefit for this rezoning and thus the implications of spot zoning are inherent.

➤ **PLANNING RECOMMENDATION:**

While staff fully supports the Muse Theatre, upon more research and discussions among City staff and other public entities staff cannot recommend this rezoning in any form. In light of the City Attorney's legal memorandum on this item, staff contacted the City of La Crosse School District to measure their concern with the rezoning. The School District is concerned about the potential commercial uses that could move into the property in the future if the rezoning takes place, but prefers to remain silent on these rezoning matters. Per the City Attorney, is it not lawful for the City to negotiate with the property owner to record a covenant, nor to legally review that covenant to ensure long term viability of the recording, with no option of repeal. It would take a third party to complete those negotiations, and a third party has not stepped forward in this case.

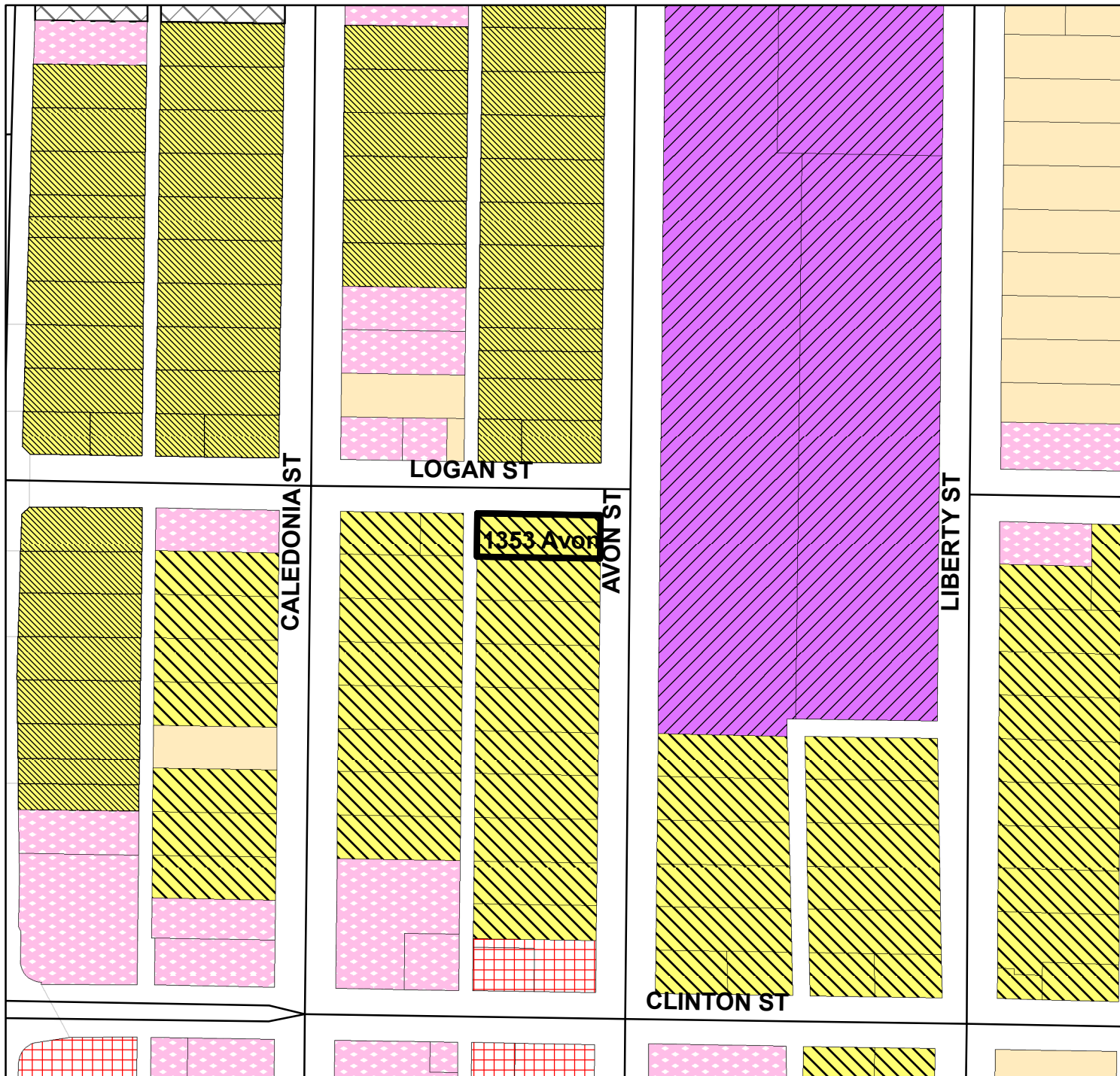
Last month one concerned citizen discussed the rezoning with the Planning Department; that person was ok with the rezoning, if a covenant was put in place. Planning staff have contacted that person and updated them on the current situation.

While staff is sympathetic to the property owners' business affairs, this rezoning poses challenges on multiple fronts: parking, commercial zoning across from a middle school, spot zoning, and contract zoning.

Staff cautions the Commission on the potential of moving forward with J&A's recommendation to rezone upon the owner recording a covenant. The legality of that rezoning, along with the potential for the covenant to not legally stick may pose issues for the City in the future. **Staff recommendation is for denial of this rezoning.**

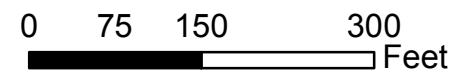
In staff's opinion, the Commission has two options:

- 1) Adopt- This option would allow the applicant to move forward with opening a salon and would allow any commercial use to be permitted at this location in the future should the property change ownership. The applicant will then need to go to the Board of Zoning Appeals for a waiver of the on-site parking requirement.
- 2) Deny - This option would not allow the applicant to open a salon at this location.


























BASIC ZONING DISTRICTS

- R1 - SINGLE FAMILY
- R2 - RESIDENCE
- WR - WASHBURN RES
- R3 - SPECIAL RESIDENCE
- R4 - LOW DENSITY MULTI
- R5 - MULTIPLE DWELLING
- R6 - SPECIAL MULTIPLE
- PD- PLANNED DEVELOP
- TND - TRAD NEIGH DEV.
- C1 - LOCAL BUSINESS
- C2 - COMMERCIAL
- C3 - COMMUNITY BUSINESS
- M1 - LIGHT INDUSTRIAL
- M2 - HEAVY INDUSTRIAL
- PS - PUBLIC & SEMI-PUBLIC
- PL - PARKING LOT
- UT - PUBLIC UTILITY
- CON - CONSERVANCY
- FW - FLOODWAY
- A1 - AGRICULTURAL
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- City Limits
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