



## PLANNING AND DEVELOPMENT

400 LA CROSSE STREET | LA CROSSE, WI 54601 | P: (608) 789-7512 | F: (608) 789-7318

### Memorandum

**To:** Common Council  
**From:** Amy Peterson, Planning & Economic Development Administrator  
**cc:** City Attorney's Office  
**Date:** September 11, 2014  
**Re:** Update to: 14-0827 – 1353 Avon Street – Salon Medusa

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### **Background:**

#### **(Also see City Attorney's Memo dated August 13, 2014)**

The applicants are currently requesting a rezoning in order to relocate their salon, Salon Medusa, to 1353 Avon Street. Their previous salon location was Downtown and they needed to relocate as their landlord wanted to renovate the building for apartments; it is staffs understanding that the applicants were given ample time/notice for relocation. The 1353 Avon Street property is currently zoned R2-Residence and includes a single family home that is being rented and a former church that is now the Muse Theatre. Facilities for the Theatrical productions are allowed in R2 zoning with a Conditional Use Permit, which was previously obtained.

The applicants, wanting to consolidate all of their ventures into one location, started to operate their salon out of the theatre, misunderstanding that the process for allowing the theatre did not permit them to have a commercial business. The City Inspection Department issued them an Order to Correct ("OTC") to cease using the property as a salon. [Note: The applicant continues to operate the salon, even though they have been issued the OTC.] Upon receiving the OTC the applicant requested a meeting with the Planning and Inspections Departments to discuss what options were available to them. Planning staff stated that the only option that would allow them to have a theatre, salon, and an upstairs residence was to rezone the property to C1-Local Business. The applicants submitted their request for rezoning in the August 2014 Common Council cycle.

After notification to the surrounding property owners, one property owner came into our office with concerns about the proposed rezoning and the long term impacts. His concern was not of the salon but of what could go there if the applicant was to ever sell the property in the future. This property owner asked Planning staff if there was a way to only permit a salon and have the property revert back to R2-Residential

AMY M. PETERSON, AICP, PLANNING & ECONOMIC DEVELOPMENT ADMINISTRATOR  
TIM ACKLIN, SENIOR PLANNER - HERITAGE PRESERVATION  
NATHAN PATROS, ASSOCIATE PLANNER - ECONOMIC DEVELOPMENT  
LEWIS KUHLMAN, ASSOCIATE PLANNER - COMMUNITY DEVELOPMENT

CAROLINE NEILSEN, COMMUNITY DEVELOPMENT ADMINISTRATOR  
ED YOUNG, HOUSING REHABILITATION SPECIALIST  
KEVIN CLEMENTS, ASSISTANT HOUSING REHABILITATION SPECIALIST  
JACOB LAROW, NEIGHBORHOOD HOUSING DEVELOPMENT ASSOCIATE  
VACANT – FEDERAL PROGRAMS ACCOUNTING TECHNICIAN

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if it ceases to be used a salon. As a result of this conversation Planning staff suggested to the applicant that recording a covenant on their property stating that it would revert back to R2-Residential zoning if it ceases to be used as a salon might be a way to ease any potential concerns from the neighborhood. The applicant felt that it was a valid suggestion and may be considering pursuing a covenant.

A neighboring property owner contacted staff again this week, concerned about J&A's approval recommendation. Concerns stem from the potential for any commercial use to move into this property in the future if the rezoning takes place. Parking is also an issue with the property adjacent to Logan Middle School. The salon currently has three work stations, with the potential of six customers coming and going at a time, and potentially three salon staff at any given time.

## **Outstanding Debt Owed:**

The applicant mentioned to staff and at the recent Plan Commission meeting that they are behind in paying their taxes. Upon further investigation, staff found the following:

## **Outstanding Real Property Taxes:**

<u>Tax Year</u>	<u>Total Tax</u>	<u>Tax Paid</u>	<u>Accrued Interest</u>	<u>Accrued Penalties</u>	<u>Balance</u>
2013	\$6,708.08	0.00	\$536.64	\$268.32	\$7,513.04
2012	\$6,008.67	0.00	\$1,201.80	\$600.80	\$7,811.27
2011	\$6,053.66	0.00	\$1,937.28	\$968.64	\$8,959.58
2010	\$5,979.91	\$1,200.00	\$2,379.98	\$1,189.88	\$8,349.77
<b>Total</b>					<b>\$32,633.66</b>

## **Outstanding Personal Property Taxes:**

Salon Medusa

2013	\$806.23
2012	\$950.43
2011	\$873.42
2010	\$806.23
<b>Total</b>	<b>\$3,681.94</b>

Muse Theatre

2013	\$301.48
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**Grand Total, all taxes owed: \$40,299.02**

This outstanding debt is relevant given that if the rezoning is approved, a building permit will be needed. Also that at prior meetings, the option of amending the zoning ordinance to provide for a conditional use permit was discussed. However, Ordinance 2-292 of the City of La Crosse Municipal Code provides:

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Sec. 2-292. Unpaid debts due the City.

No permits, licenses, leases or other franchises shall be granted by the City or by any City officer, board, department, or employee, to any person who owes the City any money or debt. No item, goods or tangible property shall be sold to any such person except for cash. This section shall not apply to a person who is making regular payments on such person's debt, according to a schedule approved by the City, its officers or employees.

## **Clear Common Council Options:**

Based on the above information and the City Attorney's August 13, 2014 memo, it seems the Common Council has the following options:

- 1) Adopt the Rezoning Request (without the Restrictive Covenant) - This option would allow the applicant to move forward with operating a salon at the property but would also allow any commercial use of the property. There are other problems with this option:
  - a. There are outstanding taxes owed for the property and businesses. Pursuant to Ordinance 2-292 of the Municipal Code, the Building and Inspections Department cannot issue a building permit due to this outstanding debt.
  - b. State building code will require the applicant to install proper fire separations between the theatre and the salon, as well as making the salon ADA accessible (currently accessed via stairs).
- 2) Deny the Rezoning Request - This option would not allow the applicant to operate a salon at the property.

## **Options Discussed Previously:**

At various meetings regarding this rezoning request, there have been inquiries regarding other potential options, specifically 1) amending the zoning district ordinance to permit a salon use in an R2-Residence Zoning District as a conditional use; and 2) rezoning the property with conditions. Each of these is discussed below:

1) Amending the R2-Residence Zoning District Ordinance to Permit the Salon as a Conditional Use- In order to exercise this option, the Common Council would deny the pending rezoning application. An ordinance would be introduced to amend the R2-Residence Zoning District to permit a salon as a conditional use in the zoning district. Assuming the Common Council approves the zoning ordinance change, the property owners would then need to apply for a conditional use permit for approval by the Common Council. However, the problem with this option is that there are outstanding taxes owed for the

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property and businesses. Pursuant to Ordinance 2-292 of the Municipal Code, the Common Council could not approve granting the conditional use permit due to this outstanding debt.

2) Rezoning the Property with Conditions – This option would allow the rezoning of the property and enable the applicant to operate a salon at the property under certain conditions. Concerns have been raised regarding the City possibly engaging in contract zoning and the legality and problem of enforcing the restrictive covenant in the future (see City Attorney’s Memo dated August 13, 2014). In the event that the Common Council elects to choose this option, the City Attorney has drafted a proposed conditional rezoning ordinance, which is attached to this memo. The drafted proposed conditional rezoning ordinance requires the following conditions be completed within ninety (90) days of the publication of the ordinance: 1) a restrictive covenant on the property providing that the property be used only for commercial uses of performing arts, hair salon, and a church and for residential use; 2) that the restrictive covenant include certain specific language; and 3) that the applicant shall make payment of all outstanding real estate taxes, personal property taxes, and any other debt owed to the City of La Crosse.

## **Staff Recommendation:**

There are numerous issues with this rezoning application: behind in taxes, potential commercial use next to a school, neighbors’ concerns, building code issues, spot zoning, contract zoning, applicant continuing to operate the salon under an Order To Correct, and potentially changing the ordinance for a specific property/use. **Due to all of these challenges, staff’s recommendation is to deny this rezoning.**