



## Sisters' Chocolates SUP Staff Report

**To:** City of Dickinson Planning and Zoning Commission  
**From:** City of Dickinson Community Development  
**Date:** September 4, 2024  
**Re:** **SUP-005-2024 Sisters' Chocolates Special Use Permit**

### OWNER/APPLICANT

Stephanie Steffan/Sisters' Chocolates  
 860 20<sup>th</sup> Street West  
 Dickinson, ND 58601  
 sisterschocolates@ndsupernet.com  
 (701) 290-9449

<b>Public Hearing</b>	September 11, 2024	Planning and Zoning Commission
<b>Final Action</b>	September 17, 2024	City Commission

### EXECUTIVE SUMMARY

The applicant is requesting approval of a Special Use Permit for a home-based business/home occupation for a small-scale commercial chocolate production to be entirely contained within the residence at 860 20<sup>th</sup> Street West within the City of Dickinson. The property is currently zoned Low Density Residential (R1).

Staff Recommendation: Staff recommends approval subject to conditions.

### LOCATION

The site is located on Lots 7 & 8, Block 10 of the Prairie Hills 2nd replat.

<b>CURRENT ZONING</b>	<b>R-1</b>
<b>FUTURE LAND USE MAP DESIGNATION</b>	<b>RESIDENTIAL</b>
<b>GROSS SITE ACREAGE</b>	<b>+/- 0.55</b>

NEARBY ZONING & LAND USE		
Direction	Zoning	Land Use
North	R-1	Single-family residential
East	R-1	Single-family residential
South	R-1	Single-family residential
West	R-1	Single-family residential

## STAFF ANALYSIS

### CURRENT ORDINANCE REVIEW

#### Compliance with Zoning

Staff identifies the chocolate-producing operations as a home-based business/home occupation use within the Municipal Code. According to Section 39.02.011, a home-based business/home occupation is defined as “An accessory occupational use conducted entirely within a dwelling unit by a member of the family residing in the premises, which is clearly incidental to the residential use of the dwelling or residential structure and does not change the residential character of its site.” Since, as described by the applicant, this business is run by the applicant and operations are contained within her kitchen, this definition applies, and the business is subject to restrictions outlined for home-based businesses/home occupation within the Municipal Code.

According to Section 39.04, Table 4-2: Permitted Uses by Zoning Districts, home-based businesses/home occupations are allowed in residential units within the R-1 zoning district as an accessory use upon obtaining a Special Use Permit. Additionally, Section 39.06.008 details restrictions on the impact a home-based business can have on the residence they inhabit. The restrictions are as follows:

#### 1. External Effects:

(a) There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.

(b) No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.

(c) The home occupation shall be carried on entirely within the principal residential structure and/or within a detached accessory building approved by the City in accordance with these zoning regulations. All "External Effects" criteria in items a.1. (a), (b), (d), (e) and (f) of this subsection are applicable for the detached accessory building.

(d) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.

(e) No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.

(f) All discharges of sewage and wastes into public sewers shall comply with all applicable City ordinances.

2. Employees: The home occupation shall employ no more than one full time or part time employee on site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.

3. Extent of Use: For all residential and agricultural zoning districts, a maximum percent floor area of 30% of the dwelling may be devoted to the home occupation, inclusive of any detached accessory buildings used for the home occupation.

4. Signage: Signage shall be permitted as set forth for each base district in Article Ten.

#### 5. Prohibited Home-Based Businesses/Home Occupations

(a) Beauty and Barber Shops: Barber and beauty shops are allowed only with a Special Use Permit as home occupations in the AG, R-2, and R-3 zoning districts.

(b) Welding, vehicle body repair, or rebuilding or dismantling of vehicles are not permitted as home-based businesses.

The applicant also explained that no more than 156 square feet of the existing 3000 square foot home shall be used for business operations. This equates to 5.2% of the primary residential structure: well below the permitted 30% maximum home occupation permitted percentage.

## COMPATIBILITY

Staff has discussed the nature of business operations with the applicant. In this discussion, the applicant explained no customers would come to her residence, there would be no employees aside from herself, no orders would be shipped from the site after 2:00 p.m., and after 2:00 p.m. the applicant would take orders directly to the shipping company for delivery. Staff finds the proposed home-based business/home occupation would have minimal impact to local traffic on 20<sup>th</sup> Street West, as no additional parking will be required for employees and there will not be an increase in the frequency of delivery vans.

The applicant also indicated she has no plans to put up a business sign or alter the exterior of the house.

Staff finds the following:

- The proposed home-based business/home occupation meets the development standards found in Section 39.06.008 of the City's Zoning Ordinance; and
- The proposed home-based business/home occupation would be compatible with the surrounding single-family residential land use.

According to Section 39.12.003d, "The City Commission may apply any reasonable conditions to the approval of the permit." Staff recommends City Commission attach the following conditions to the approval of this special use permit:

- Operation of the home-based business/home occupation shall be as described in this staff report as well as in the material found in Attachment A; and
- The SUP approval shall expire with any change in ownership. All subsequent owners of the property shall be required to reapply for SUP approval; and
- Operation of the home-based business/home occupation shall comply with all applicable City, County, State, and Federal regulations.

## **PUBLIC COMMENT AND STAFF RECOMMENDATION**

**Public Input:** Staff has not received any public input as of this report.

**Staff Recommendation:** The City Development staff recommends **approval** of this Special Use Permit, with the conditions that the business continues to abide by regulations on home-based business use detailed above.

**MOTIONS:**

**\*\*\*Approval\*\*\***

*"I move the City of Dickinson Planning and Zoning Commission recommend approval of **SUP-005-2024 Sisters' Chocolates Special Use Permit** as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare "*

*(AND) the following additional requirements (IF THE PLANNING AND ZONING COMMISSION RECOMMENDS ANY ADDITIONS AND/OR DELETIONS TO THE PROPOSED MOTION LANGUAGE):*

1. \_\_\_\_\_;
2. \_\_\_\_\_.

**\*\*\*Denial\*\*\***

*"I move the Dickinson Planning and Zoning Commission recommend Denial of **SUP-005-2024 Sisters' Chocolates Special Use Permit** as NOT meeting all the requirements of the Dickinson Municipal Code and as being contrary to interest of the public health, safety and welfare."*