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## MEMO

**Date:** June 10, 2014

**Re:** Planning Commission/Board of Adjustment Report

Dear Mayor and City Council,

The Planning Commission/Board of Adjustment held its regular meeting on June 9, 2014. There were two public hearings for which the Commission is giving you their recommendation.

One of the public hearings involved an application for a home occupation. The other public hearing involved a proposed ordinance amendment.

Action by the City Council regarding the Planning Commission and Board of Adjustment recommendations are now necessary.

### PUBLIC HEARING #1

**Application:** Conditional use permit request to operate a home occupation not meeting the requirements for a permitted home occupation in a One and Two Family Residential District (R-2).

**Applicant:** Mary Ann Susalski

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### Background Information:

- Proposal:** The applicant is proposing to operate a "nutrition club" business out of the house that is on this property. The house is not currently lived in and would be used exclusively and entirely for the nutrition club and related small events involving club members.

The applicant states on their application "I am an independent Herbalife consultant. My clients come one on one by appointments and invitations only. I serve them a protein smoothie and do a wellness evaluation. We do not advertise. We never have a large group at one time. This is not a retail store. There is only a sign in the window. Energy Plus Nutrition. There is no outside sign. The home will look the same as no changes will take place to the outside. The entire house will be used for the club."

The applicant later states "Only a few cars at one time. My driveway can hold 6 cars at one time. If necessary it could be wider."

- Location:**
  - o Property address: 1006 5<sup>th</sup> Ave SE
  - o Condensed Legal Description: PT OF NE1/4 OF NE1/4 DESC AS: BEG AT NW COR OF DOC 431347, W ALG N LN (BEING S LN OF 5TH AVE SE) 120 FT, S PARL WITH E LN OF NE1/4 OF NE1/4 297 FT, E PARL WITH N LN 120 FT TO SW COR OF DOC 431347, N ALG W LN 297 FT TO BEG 49.1161.000

- Parcel number(s): 48.6326.000
- **Property Owner:** Gottwalt Properties, Inc. (Fee Owner: Mary Ann Susalski)
- **Current Zoning:** One and Two Family Residential District (R-2)

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**Planning Commission/Board of Adjustment Action:** The Planning Commission has recommended approval of the request with the following conditions:

1. That the hours of operation be limited to between 7:00am and 9:00pm.
2. That any signage related to the home occupation be limited to that allowed for residential uses in the R-2 zoning district.
3. That the maximum number of customers/club members on-site at any one time be limited to 12.
4. That the applicant shall ensure there are at least six (6) off-street parking spaces available.

While not specifically listed in the recommended conditions, the Planning Commission gave its recommendation based on the understanding that the applicant was not engaging in any retail sales of products to the general public – only sales to club members. There was also discussion that the Department of Agriculture had some regulatory authority over aspects of the business, with the understanding that the applicant would need to meet any of those requirements.

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**City Council Direction:** The City Council may approve the request, deny the request, or table the request if the Council should need additional information from the applicant. If the Council should approve or deny the request, it should state the findings which support either of these actions. If the application is tabled, the Council should provide specific direction as to what additional information is needed.

## **PUBLIC HEARING #2**

**Application:** Ordinance amendment to add to existing language to section 11.04 of the City Code and add a new section 11.04.H entitled “Revocation, Suspension or Refusal to Renew Procedures”. The proposed amendment will clarify the procedures by which a previously granted variance, conditional use or other permit may be revoked, suspended or not be renewed and clarify that both variance and conditional use permit decisions are to be recorded at the Morrison County Recorder’s office.

**Applicant:** City of Little Falls

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### **Background Information:**

- **Proposal:** Section 11.04.D of the current City Code states that a “violation of any condition set forth in a conditional use permit shall be a violation of this chapter and *automatically* terminate the conditional use permit” (emphasis added). Upon review of this particular requirement, the City Attorney and City Staff were concerned that such an *automatic* revocation of a conditional use permit would fail to provide due process to the permit holder. In other words, the automatic revocation of a conditional use permit would not provide the permit holder an opportunity to respond to their alleged violation nor an

opportunity for any members of the public to provide their input into the decision nor the Planning Commission or City Council an opportunity to review the situation. Presumably, it could be only up to the Zoning Administrator as to whether a violation had occurred.

The proposed language would address this by providing a clear process to address a potential revocation of a conditional use permit *or* a variance. This process would involve scheduling a public hearing if the Zoning Administrator obtained information indicating a basis for revocation, suspension or amendment of the conditional use permit.

The proposed changes also clarify that variances *and* conditional use permits are to be recorded at the County Recorder's office (the current language only specifies variances).

A copy of the proposed language amendments to Section 11.04, as recommended by the Planning Commission, are attached.

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**Planning Commission/Board of Adjustment Action:** The Planning Commission has recommended approval of the proposed ordinance amendments as presented.

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**City Council Direction:** The City Council may approve the ordinance amendment, deny the amendment, or table the issue if the Council should need additional information. If the application is tabled, the Council should provide specific direction as to what additional information is needed.

If you have any questions, please feel free to contact me. I can be reached by phone at (888) 439-9793 or by email at [oleson@hometownplanning.com](mailto:oleson@hometownplanning.com).

Sincerely,



Ben Oleson, AICP  
Hometown Planning  
City of Little Falls Zoning Official