

**May 12, 2025 BOARD OF ADJUSTMENT/ PLANNING COMMISSION DEUEL COUNTY
STAFF REPORT**

Monday – May 12, 2025 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1 CONDITIONAL USE PERMIT

Applicant: 212 Works LLC

Owners: Bradley & Martie Bothun

Property Description: That part of the W1/2SW1/4 of Section 15-117-47 being also described as Gov Lot 1 in said Section, which lies south of HWY 212, except Highway right-of-way, Antelope Valley Township, Deuel County, South Dakota.

Action Items – CONDITIONAL USE PERMIT –Section 1101.04.15 – Seasonal retail sales, including fireworks stands that require a permanent structure.

Zoning Designation: AG – Agricultural

Request: Applicant/Owner to operate a seasonal fireworks stand.

History/Issue(s):

Specifics of Request:

1. Bradley & Martie Bothun purchased the property on 4-7-2025, the current property is 13 acres which is zoned AG – Agricultural.
2. Access to this property is South Dakota Highway 212.
3. The applicant has received State License.
4. The applicant will apply for a County Fireworks License if the CUP is approved, that would be a yearly license like the State License.
5. The site has an existing structure that is within the setback, however they are not adding on to the existing structure.
6. They would like to move in nine shipping containers (6 new & 3 from the Dixie site that is owned by 212 Works LLC) that will meet the setbacks.
7. They will have a parking area so customers will not park in the State Hwy 212 road right-of-way.
8. The request includes the following:
 - a) Work Scope: The business will focus selling fireworks from May 1 to July 5, this year if the CUP is approved, they would start selling the Thursday before Memorial Day which is May 22. They would be open Thursdays thru Sunday's noon to dark. On June 26 until July 5, they would be open daily.
 - b) On-Premise Sign: The applicants would have temporary banners and will be taken down after July 5 and be located on the building and not in the road right-of-way.
 - c) Employees: Family members will be the employees working at the business.
9. This property is not located on the Zone B or Zone A of the Aquifer Protection Overlay Zones.
10. Deuel County Ordinance requires that a landowner go through the Conditional Use Permit Process to operate a seasonal retail sales, including fireworks stands that require a permanent structure. in the "AG" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o **Lot Access:** The proposed site will have access off of SD Hwy 212 provides efficient access for both vehicular traffic and service vehicles.
- o **Off-Street Parking:** The site provides ample space for off-street parking so customers will not park in the State Hwy 212 road right-of-way.
- o **Utilities:** The property is serviced by electricity on-site and they have no water on site. Trash services will be handled by taking the garbage home at night.
- o **Screening and Buffering:** none
- o **On-Site Signage:** The applicant intends temporary banners and will be taken down after July 5 and be located on the building and not in the road right-of-way.
- o **Open Space and Yard Utilization:** The site includes efficient use of yard and open space, with parking planned to avoid parking in the road right-of-way.

Staff recommendation:

Condition Use Permit Seasonal retail sales, including fireworks stands that require a permanent structure.

The Board may postpone the request, deny the request or approve the request with or without conditions. If approved, staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- a) The applicant is required to meet all State laws regarding location and operation of fireworks stand (separation from other structures, hours of operation, etc).
- b) The applicant may be required to present the Zoning Officer with a copy of the State Permit from the State Fire Marshall's Office prior to opening for sales for any specific season.
- c) The applicant shall obtain a Deuel County Fireworks Sales License annually.
- d) No parking is permitted in the public right-of-way or on the private drive.
- e) Temporary signage (banners) shall not be placed in the road right-of-way and must be removed after July 5.
- f) Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. The Deuel County Zoning Officer will determine violations. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.
- g) This Conditional Use permit is not transferable. Or This Conditional Use Permit may not be converted to another use type except through the issuance of a new Conditional Use Permit. The Conditional Use Permit to operate a temporary seasonal stand (fireworks sales) is transferable, provided the new owner signs a Letter of Assurance agreeing to abide by all conditions of the original permit.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the conditional use and that granting the conditional use will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM #2 CONDITIONAL USE PERMIT

Applicant/Owner: 212 Works LLC

Property Description: the S340' of the W100' of the E1/2SE1/4 of Section 16-117-47, Antelope Valley Township, Deuel County, South Dakota

Action Items – CONDITIONAL USE PERMIT –Section 1101.04.15 – Seasonal retail sales, including fireworks stands that require a permanent structure.

Zoning Designation: AG – Agricultural

Request: Applicant/Owner to operate operate a seasonal fireworks stand.

History/Issue(s):

Specifics of Request:

1. 212 Works LLC (Brad, Tom and Jake Bothun) purchased the property on 4-7-2025, the current property is ~~43 acres~~ .78 acres which is zoned AG – Agricultural.
2. Access to this property is South Dakota Highway 212.
3. The applicant is has received State License.
4. The applicant will apply for a County Fireworks License if the CUP is approved, that would be a yearly license like the State License.
5. The site has an one existing structure that is outside the setback and one existing shed within the setback, however they are not adding on to the existing structure.
6. They would like to move the existing 5 shipping containers behind the existing pole shed that will meet the setbacks.
7. The will have a parking area so customers will not park in the State Hwy 212 road right-of-way.
8. The request includes the following:
 - a) Work Scope: The business will focus selling fireworks from May 1 to July 5, this year if the CUP is approved, they would start selling the Thursday before Memorial Day which is May 22. They would be open Thursdays thru Sunday's noon to dark. On June 26 until July 5, they would be open daily.
 - b) On-Premise Sign: The applicants will use the existing signs on the pole sheds and roof that states Dixie and Fireworks.
 - c) Employees: Family members will be the employees working at the business.
9. This property is not located on the Zone B or Zone A of the Aquifer Protection Overlay Zones.

10. Deuel County Ordinance requires that a landowner go through the Conditional Use Permit Process to operate a seasonal retail sales, including fireworks stands that require a permanent structure. in the "AG" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o Lot Access: The proposed site will have access off of SD Hwy 212 provides efficient access for both vehicular traffic and service vehicles.
- o Off-Street Parking: The site provides ample space for off-street parking so customers will not park in the State Hwy 212 road right-of-way.
- o Utilities: The property is serviced by electricity on-site and they have they have a well for water service on site. Trash services will be handled by taking the garage home at night.
- o Screening and Buffering: none
- o On-Site Signage: The applicants will use the existing signs on the pole sheds and roof that states Dixie and Fireworks..
- o Open Space and Yard Utilization: The site includes efficient use of yard and open space, with parking planned to avoid parking in the road right-of-way.

Staff recommendation:

Condition Use Permit Seasonal retail sales, including fireworks stands that require a permanent structure.

The Board may postpone the request, deny the request or approve the request with or without conditions. If approved, staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- a) The applicant is required to meet all State laws regarding location and operation of fireworks stand (separation from other structures, hours of operation, etc).
- b) The applicant may be required to present the Zoning Officer with a copy of the State Permit from the State Fire Marshall's Office prior to opening for sales for any specific season.
- c) The applicant shall obtain a Deuel County Fireworks Sales License annually.
- d) No parking is permitted in the public right-of-way or on the private drive.
- e) Only the existing signage on the pole sheds and roof may be used for advertising.
- f) Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. The Deuel County Zoning Officer will determine violations. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.
- g) This Conditional Use permit is not transferable. Or This Conditional Use Permit may not be converted to another use type except through the issuance of a new Conditional Use Permit. The Conditional Use Permit to operate a temporary seasonal stand (fireworks sales) is transferable, provided the new owner signs a Letter of Assurance agreeing to abide by all conditions of the original permit.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the conditional use and that granting the conditional use will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM #3 VARIANCE

Applicant/Owners: Matthew & Emily Coequyt

Property Description: Lot 12 Elms in Gov Lot 6 in NE1/4 of the Section 4-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota.

Action Items – Variance – (Section 1103.06 Minimum Lot Area and Yard)

Zoning Designation: LP – Lake Park

Request: Applicant requesting a Variance to remove old deck and stair and replace with new decks and stairs less than 50' from the high-water mark.

Specifics of Request:

- 1. The applicants purchased the property in 2018.
- 2. They propose to remove an existing deck and stairway and replace it with new construction.

3. The existing deck, measuring approximately 12' x 28', is located approximately 52 feet and 48 feet (the shoreline is at an angle) from the high-water mark.
4. The existing deck is approximately 5 feet from the left property line and 7 feet from the right side line.
5. The applicants propose constructing a new deck measuring approximately 28' x 18', with steps extending approximately 3 feet, resulting in an overall structure that is approximately:
 - 39 to 43 feet from the high-water mark (including the stairs),
 - 5 feet from the right property line,
 - 7 feet from the left property line.
6. The existing deck's construction date could not be confirmed, and no variance was previously granted. The owners have expressed safety concerns due to rotting wood.
7. The deck on the neighboring property to the right extends approximately the same distance from the high-water mark as the applicants' proposed deck.

Ordinance/Variance History regarding this request:

1103.06 Minimum Lot Area and Yard

1. Each building shall be set back not less than fifty (50) feet from the right-of-way of State or Federal highways. For all other roads, the front yard setback shall at least thirty (30) feet from the edge of the road, but in no circumstance shall the structure be located within the right-of-way. Side yards shall have a ten (10) foot setback from the side yard property line. Exception: On those lots platted prior to June 8, 1976, which have a lot width of less than seventy-five (75) feet, each building shall have a side yard of not less than a distance equal to ten (10) percent of the lot width. Under no circumstances shall a building have a side yard of less than five (5) feet. Roof overhangs may infringe upon the side yard requirements no more than one and one-half (1.5) feet.

Zoning Context and Precedents:

- The property is located outside the floodplain.
- The Board has previously granted similar variance requests within the Lake Park District, including approvals for the Kooima, Pederson, and Clemensen properties.

Staff recommendation: If approved, staff recommendation - To grant the Variance to remove old deck and construct a new deck and stairs no closer than 37 feet from the high-water mark.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district.

ITEM #4 VARIANCE

Applicant/Owners: Landen Brown

Property Description: SE1/4 Less H-1 in Section 22-14-48, Norden Township, Deuel County, South Dakota.

Action Items – Variance – (Section 1208 Shelterbelt Setback Requirement)

Zoning Designation: AG – Agricultural

Request: The applicant is requesting a Variance from Section 1208 of the Zoning Ordinance, which requires the windward row of a shelterbelt to be set back at least 150 feet from a public road right-of-way. The applicant proposes to plant a new shelterbelt with the first row of trees approximately 60 feet from the right-of-way (ROW) of County Highway 314 (also known as 188th Street), and the windward row would be located approximately 102 feet from the ROW, falling short of the required 150-foot setback.

Specifics of Request:

1. The applicant acquired the property in 2024.
2. A previous shelterbelt existed on the site but was removed by a prior owner in 2004.
3. The existing residential structure is located approximately 140 feet from the County Highway 314 ROW.
4. The applicant collaborated with County Highway Supervisor Jamie Broksieck, who approved the shelterbelt configuration. The windward row, comprised of snow-containment species, will be planted about 110 feet from the road centerline (~60 feet from the ROW).
5. The shelterbelt will be approximately 45 feet wide and consist of four rows of trees, satisfying the intent of a multi-row windbreak as described in Section 1208.

**Ordinance/Variance History regarding this request:
Section 1208. Shelterbelt Setback Requirements.**

1. Permits are required for all shelterbelt plantings.
2. A shelterbelt, consisting of a single row of trees shall not be established within one hundred fifty (150) feet of a public road right-of-way line.
3. A shelterbelt may be established within fifty (50) feet of the public road right-of-way line if the windward row of trees is established one hundred fifty (150) feet from the public road right-of-way line. Further, the shelter belt will consist of at least three (3) rows of trees with the windward row of trees consisting of shrubbery or tree species which aid in the containment of snow. See Figure 1208.1.

Variance Context and Precedent:

Shelterbelt setback variances are occasionally granted when:

- The proposal meets the intent of Section 1208 by incorporating a multi-row design and species aimed at snow containment.
- The proximity of the existing residence and prior shelterbelt removal present unique site circumstances.
- The plan has received support from the County Highway Supervisor
- The property is situated in a rural agricultural setting, where windbreaks are commonly used to protect structures and soil.

Staff recommendation: If approved, staff recommendation - To grant the Variance to allow the shelterbelt to be planted no closer than 60 feet from the road right-of-way (County Highway 314 / 188th Street), with the windward row planted no closer than approximately 100 feet from the road right-of-way.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district.

ITEM #5 CONDITIONAL USE PERMITS

Applicant: Central Specialties Inc

Property Owner: Charles & Pam Atyeo

Property Description: Gov Lots 3-4 & E1/2 SW1/4 in Section 18-115-48, Clear Lake Township, Deuel County, South Dakota

Action Items – Conditional Uses Permit – (Section 1101.04.04 Sand, gravel or quarry operation, Mineral exploration and extraction, rock crushers, concrete and asphalt mixing plants provided they they meet requirements of Section 1219)

Zoning Designation: A – Agricultural; Zone A and B – Aquifer Protection Overlay District (Well protection area- Zone A, Shallow Aquifer- Zone B)

Request: Central Specialties Inc requests a Conditional Use Permit to operate concrete and asphalt mixing plants in conjunction with a previously approved gravel extraction and rock crushing operation on the above-described property. The site is located within Zones A and B of the Aquifer Protection Overlay District and lies within 1,000 feet of a residence.

History and Context:

- On March 25, 2025, the Deuel County Board of Adjustment approved a Conditional Use Permit for gravel extraction and rock crushing operations at the subject site. Conditions were included to mitigate environmental risks, particularly due to the property's location within Zones A and B of the Aquifer Protection Overlay District.
Following that approval, the applicant, Central Specialties Inc, was required to either:
 - Maximum on-site petroleum storage limited to 1,000 gallons (two-day supply)
 - All tanks required to be double-walled and located over containment-grade plastic with 3-foot berms
 - Applicant required to return with either a relocation plan for asphalt operations or a site-specific contamination prevention plan
- Per correspondence dated April 3, 2025, the applicant has been unable to relocate the asphalt plant and now seeks approval to operate on the existing site. Updated risk mitigation measures have been proposed, as summarized below.
 - a. Has proposed several risk mitigation steps (see below). Per email from May 6 from Central Specialties IncBetween the dates of 7/1/2025 and 8/30/2025, Central Specialties is requesting approval to operate the asphalt plant during the hours of 5:00am to 8:00pm.

Following last month's discussion regarding environmental concerns, we have taken several proactive steps to address potential pollution issues. These include:

- Removal of the large diesel tank from the site. We will instead utilize a 1,000-gallon diesel tank with appropriate underlayment protection and a 3 ft berm for the loader, consistent with the setup approved for the crushing operation.
- Removal of the tack barrel from the site. Vehicles will now load tack material at the job or road site rather than at the plant.
- Transition from waste oil to propane for heating the asphalt mix. This will significantly reduce potential contamination risks.

Additionally, the peanut oil previously used to prevent asphalt from sticking to truck beds has been replaced with Meyer Labs' Ultra Slider, a product that offers multiple environmental advantages. These include the use of biodegradable ingredients, a non-toxic and VOC-free formula, and packaging designed for reduced environmental impact. These features help us minimize runoff concerns and reduce our overall ecological footprint.

We appreciate your consideration of these adjustments, and we remain committed to operating in a manner that meets all safety and environmental standards.

- A waiver has been submitted by the affected landowners (Charles & Pam Atyeo), addressing the 1,000-foot residential setback issue. However, a separate variance is still technically required.

Environmental and Aquifer Protection Concerns:

The property lies within Zone A (Wellhead Protection Area) and Zone B (Shallow Aquifer Area). These zones are regulated under Section 1105.07, which prohibits:

Ordinance & Comprehensive Plan Considerations:

- **Section 1105.07(13) strictly limits uses in Zone A if they pose a contamination risk.**
 - **Section 1105.07. Prohibited Uses in Zone A.**
 13. All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on ground water quality.
- The Board must determine if the proposed asphalt mixing operation qualifies as a prohibited use, and if so, whether exceptions or findings can be made based on proposed mitigation.

Staff Summary and Recommendation:

Variance #1 – 1000' setback from residence: The Board may table the request, deny the request or approve the request. If approved, staff recommends approval be based upon the submittal of a waiver to the setback requirement by the affected landowner.

Conditional Use Permit – **to operation a concrete and asphalt mixing plants on the above property located within 1,000 of a residence.** The Board may table the request, deny the request or approve the request.

I have been in contact with the 1st District Association of Local Governments, their opinion is an asphalt mixing operations are not permissible within Zone A (Wellhead Aquifer Protection District) under current ordinance language Subsection 1105.07(13).

After review of the applicable zoning ordinance, it is the staff's interpretation that asphalt mixing operations are likely not permissible within Zone A, due to the broad language in Subsection 1105.07(13).

Section 1105.07 of the zoning ordinance outlines prohibited uses within Zone A to protect groundwater resources. Specifically, Subsection 1105.07(13) prohibits:

- All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on ground water quality.

The Board must make the following determinations:

- Does the proposed asphalt mixing operation constitute a prohibited use under Section 1105.07(13)?
- If not prohibited, can the proposed mitigation measures reasonably ensure protection of groundwater quality?

ITEM #6 CONDITIONAL USE PERMIT

Applicant/Owners: Craig & Darla Jelen

Property Description: Rhyne Third Addition in E1/2SW1/4, Section 18-116-49 Deuel County, South Dakota

Action Items – CONDITIONAL USE PERMIT – (Section 1101.04.9 – “Commercial Stables, fur farms, dog/cat kennel”) & (Section 1101.04-23) On premise and Off-premise Sign provided they meet requirements of Section 1214

Zoning Designation: AG – Agricultural

Request: Applicant/Owner to operate a Dog kennel for breeding, boarding, training and grooming)

Background & Application History and Updates:

1. Initial CUP Approval (April 14, 2025): The Board approved a CUP for operation of a Springer Spaniel kennel, allowing breeding, boarding, training, grooming, onsite sign, and limited retail sales. The approval was conditional upon accessory uses (grooming and retail) not exceeding 50% of the total business revenue and remaining incidental to the kennel use with approval and contingent upon the applicant signing a Letter of Assurance and submitting an updated site plan.
2. Updated Submission – May 5, 2025: In preparation for the May 12, 2025 hearing, the applicants submitted a revised site plan, which includes the following updates:

Site and Structural Changes

- **Building Dimensions Adjusted:** We modified the design of the kennel building to make it wider and shorter, reducing the visual impact.
- **Relocated Building Placement:** The structure has been moved as far north and east as possible while still remaining on the south side of the driveway, increasing distance from nearby properties.
- **Dog Run Relocation:** We relocated the dog runs from the west side to the north side of the building to reduce noise and visibility for neighboring residences to the west.

Noise-Reduction Enhancements

- **9-Foot Wall Installation:** We are constructing a 9-foot solid wall extending from the building along the west side of the dog run to serve as a substantial sound barrier.
- **Soundproofing Interior:** The interior of the dog kennel is being soundproofed using acoustic panels and insulation to contain barking and minimize noise transmission outside the building.

Visual and Vegetative Screening

- **Southeast Corner Tree Planting:** We will plant five (5) evergreen trees (approximately 6 feet tall) off the southeast corner of the building to help block both view and sound.
- **West Side Evergreen Screen:** We will plant twenty (20) evergreen trees (approximately 6 feet tall) in a staggered formation on the west side of the building to maximize coverage and sound dampening.
- **Maple Trees Around Shelter:** We will plant twenty (20) autumn maples (approximately 6–7 feet tall) around the existing shelter on the south and west sides to further soften visibility and enhance natural screening.
- **Shelter Belt Replanting:** We will replant the silver maples in the existing shelter belt with new silver maples (approximately 6–7 feet tall), which grow approximately 5 feet per year, creating a fast-growing and effective long-term barrier.

3. The original request included the following:

- a) **Work Scope:** The business will focus on breeding, training, grooming, and retail sales.
- b) **On-Premise Sign:** The applicants request approval for a single on-premise sign. They request signage that is no more than 80 square feet, featuring LED lighting for visibility while maintaining energy efficiency.
- c) **Employees:** Most of the work will be done by us (Craig & Daral Jelen), but when we need time off, we may have one or two part-time employees as needed. They plan to employ one full-time dog groomer
- d) **Hours of Business:** Original: Our hours of operation for the public will be between 7:00 a.m. and 6:00 p.m.
 - **Accordance with the April 14, 2025 meeting Business Hours:** The hours of business operation will be from 8:00 a.m. to 5:00 p.m., Monday through Friday, including drop-off and pick-up.
- e) **Outside runs:** Original: we will allow dogs out for exercise and play between the hours of 6:30 a.m. and 10:00 p.m. When outdoors, dogs will be in a securely fenced-in area or supervised by a trainer or employee at all times.
 - **Accordance with the April 14, 2025 meeting Outdoor Run Hours:** The hours for dogs to be in the outside runs are from 7:00 a.m. to 9:00 p.m.
- f) **Proposed building:** Original: will use the highest quality soundproofing materials in the construction of the building to minimize noise and ensure that neighbors will not hear the dogs while they are inside
 - **Accordance with the April 14, 2025 meeting Kennel Location:** The kennel will be located in the northwest corner of the property. This location has been specifically selected out of consideration for the

adjoining neighbors and to ensure compliance with the required setbacks from both the side and rear property lines

e) Retail Sales: Original: Retail Products: Includes Ruffland Kennels, Kuranda Beds, Inukshuk Dog Food, Blue-9 Pet Products.

- Accordance with the April 14, 2025 meeting Grooming and Retail Sales: Grooming services and retail sales directly related to raising small animals may represent a small portion of the overall operation, not to surpass 50% of total revenue generated. These uses should not dominate the kennel's operations but considered an accessory use directly related to the CUP. The applicant must adhere to all applicable state laws regarding the operation of kennels.

5. This property is not located on the Zone B or Zone A of the Aquifer Protection Overlay Zones.

6. Deuel County Ordinance requires that a landowner go through the Conditional Use Permit Process to operate an Commercial Stables, fur farms, dog/cat kennel in the "AG" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- Lot Access: The kennel will be easily accessible off County Road 3, with plenty of parking available for customers and staff. (County Road is 175th St which is a County paved road.)
 - Off-Street Parking: The site provides ample space for off-street parking, in compliance with the required parking standards. The applicant has planned for sufficient parking capacity to accommodate both staff and customer needs.
 - Utilities: The property is serviced by rural water. Garbage service will be in place for waste management. Electricity is provided by H-D Electric. The building will have its own sewer system, designed to meet South Dakota Plumbing Association standards
 - Screening and Buffering: To minimize the visual impact of the kennel and provide a noise buffer for neighbors, they have planted many trees around the property.
 - On-Site Signage: We will have signage that is no more than 80 square feet, featuring
 - LED lighting for visibility while maintaining energy efficiency.
 - Open Space and Yard Utilization: The site includes efficient use of yard and open space, with parking planned in front of the proposed shed.
- The Deuel County Zoning Ordinance currently does not allow grooming or retail sales as part of any operations in the Agricultural District. However, grooming and retail sales are explicitly allowed under the Commercial/Industrial (CI) District. This presents the question of whether grooming and retail sales activities should be permitted as part of the Conditional Uses in the Agricultural District, specifically within the framework of commercial stables, fur farms, or dog/cat kennels.

Current Zoning Ordinance:

- **The kennel is a permitted conditional use in the AG District under Section 1101.04.9.**
- **Grooming and retail services are not permitted uses in the AG District but are allowed in the CI District.**
- **CUP issued in April 2025 approved grooming/retail as accessory uses under conditions.**
- **This application highlights the need for possible ordinance amendments to clarify whether such accessory uses should be formally allowed in the AG District for kennels.**

Board Motion on April 14, 2025:

to grant the Conditional Use Permit – Commercial Stables, Fur Farms, Dog/Cat Kennels to allow the operation of a dog kennel for breeding, boarding, training, and on-site wall signage for the business, with the inclusion of grooming services and retail sales. These may include kennel or animal care-related retail sales as accessory uses under the following conditions:

- Accessory Uses: If permitted, grooming services and retail sales directly related to the raising or care of small animals may constitute a minor portion of the overall operation. These accessory uses shall not exceed 50% of the total revenue generated by the business.
- These accessory uses shall not dominate the kennel's primary function and must remain incidental and directly related to the approved use under this Conditional Use Permit.

In the event that the ordinance is amended to allow grooming and retail sales as accessory uses in the Agricultural District, this previously issued permit shall remain valid and shall continue to authorize these activities. Approval is subject to the applicant and property owner signing a Letter of Assurance and providing a new site plan to the board at their next scheduled hearing on May 12, 2025.

Staff recommendation:

Condition Use Permit – **Commercial Stables, fur farms, dog/cat kennel (to operate a Dog kennel for breeding, boarding, training and on-site sign for the business. In the event the ordinance is amended to allow grooming and retail sales as accessory uses in the Agricultural District, the previously issued permit will remain valid and authorize these activities):** The application may be approved, postponed, or denied. If approved, approval would be based on the board being empowered to issue the permit due to applicant's ability to meet the requirements for a conditional use described in ordinance. Staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

1. Signage: The on-premise signage for the kennel shall consist solely of a wall-mounted sign. This sign will not be illuminated and will fully comply with the requirements set forth in Section 1214 of the applicable regulations.
2. Kennel Location: The kennel shall be constructed in accordance with the revised site plan submitted May 5, 2025.
3. The applicant must adhere to all applicable state laws regarding the operations of kennels.
4. Grooming and Retail Sales: Grooming services and retail sales directly related to raising small animals may represent a small portion of the overall operation, not to surpass 50% of total revenue generated. These uses should not dominate the kennel's operations but considered an accessory use directly related to the CUP. The applicant must adhere to all applicable state laws regarding the operation of kennels.
5. The kennel shall have a responsible person on duty at all times.
6. Animal Capacity: The maximum number of dogs will be 40, and the maximum number of cats will be 6, that can be bred, harbored, housed, or boarded.
7. Business Hours: The hours of business operation will be from 8:00 a.m. to 5:00 p.m., Monday through Friday, including drop-off and pick-up.
8. Outdoor Run Hours: The hours for dogs to be in the outside runs are from 7:00 a.m. to 9:00 p.m.
9. Unless leashed and under the control of the operator of the Kennel or owner of the dog, no dogs shall be outside the fenced area. (Operator's personal dogs excluded.)
10. The maximum number of unrelated non-family full-time equivalent employees is 3.
11. Adequate on-site parking and loading areas must be provided.
12. The Zoning Officer is authorized to conduct site inspections to determine compliance with this and other portions of the conditional use permit as necessary.
13. This Conditional Use permit is transferable subject to new owner signing letter of assurance agreeing to the conditions of the original permit.
14. If this Conditional Use Permit (CUP) is approved, it assures that the permitting activity, including accessory use grooming and retail sales, is permitted. However, the applicant understands that, in the future, the Board may amend the ordinance to allow the Conditional Use Permit for Commercial Stables, Fur Farms, and Dog/Cat Kennels, with or without grooming and retail sales, within the Agricultural District.
15. Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. The Deuel County Zoning Officer will determine violations. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the conditional use and that granting the conditional use will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.