

**DEUEL COUNTY PLANNING COMMISSION BOARD
STAFF REPORT**

Tuesday – March 17, 2026 –10:00 a.m.

JOINT HEARING
DEUEL COUNTY PLANNING COMMISSION & BOARD OF ADJUSTMENT
DEUEL COUNTY BOARD OF COUNTY COMMISSIONERS

ITEM #1 – REZONE

Applicants: Missouri River Energy Services
Owners: James E. Peterson (James E. Peterson Living Trust)

Property Description: Record 4978 – E2SE4 EXCEPT THE WEST 9 RODS THEREOF, Section 7, Township 113 North, Range 48 West of the 5th P.M., Deuel County, South Dakota

Property Address: STR 7-113-48
Township: Scandinavia Township
Legal Acres: 71 Acres

Action Item – Rezone – (Article III, Section 302)

Zoning Designation: “AG” Agricultural District to “CI” Commercial/Industrial District

Request: For the change of zoning to “CI” Commercial/Industrial District from “AG” Agricultural District for the above-described property.

History / Procedure

- Rezoning and Conditional Use Permit (CUP) applications were submitted to the Deuel County Zoning Office on February 19, 2026.
- Section 1247 of the Deuel County Zoning Ordinance allows Public and Private Utilities only as a Conditional Use in the CI District.
- Rezoning must be approved before the CUP can be considered.
- The CUP may be scheduled for the same day as the rezoning hearing; however, action is contingent on the outcome of the rezoning.
- Staff recommends postponing CUP action to April 13, 2026, following the second reading of the rezoning by the Deuel County Commissioners on April 7, 2026.

Moratorium Status & Conditional Use Permit (CUP) Considerations

On March 3, 2026, the Planning Commission recommended a temporary countywide moratorium on Public Power Plant Facilities (excluding wind and solar) to the Deuel County Commissioners. The moratorium prohibits the acceptance, processing, or approval of new rezonings, Conditional Use Permits (CUPs), or other approvals for Public Power Plant Facilities for a period of one year, with the option of one renewal.

Staff Note: The rezoning and CUP applications for the proposed Toronto Power Plant Project were submitted on February 19, 2026, prior to the adoption of the moratorium. This means the CUP hearing may proceed. Final action on the CUP, however, remains contingent upon approval of the rezoning from AG Agricultural District to CI Commercial/Industrial District. The moratorium does not prevent consideration of applications submitted prior to March 3, 2026.

Specifics of Request

1. Missouri River Energy Services seeks the change of zoning to “CI” Commercial/Industrial District from “AG” Agricultural District for approximately 71 acres described above.
2. The subject parcel is currently zoned Agricultural District and is utilized for agricultural purposes. The property is rural in character and does not contain existing commercial or industrial development.
3. The subject property is not located over a shallow aquifer (Zone B) and is not within a Wellhead Protection Area (Zone A), reducing potential risks to groundwater resources from permitted or conditional uses in the CI district.
4. The purpose of the rezoning request is to allow the applicant to pursue a Conditional Use Permit for a Public and Private Utilities facility, which is only eligible for consideration in the Commercial/Industrial District.

Zoning Ordinance Analysis – CI District

The “CI” Commercial/Industrial District (Section 1102) is intended for commercial and industrial uses which, due to their size and nature, require highway access.

Since 2004, the County has considered eight rezoning requests from the Agricultural (AG) District to the CI District. Of these requests, six were approved and two were denied. One denial was due to the proposed location over an aquifer, while the second was denied based on the size of the parcel, which consisted of approximately 80 acres.

Conditional Use – Public and Private Utilities: Section 1102.04(7) allows Public and Private Utilities subject to Section 1247 requirements, including:

- Compliance with state and federal regulations
- Haul road agreements for construction and maintenance
- Noise limits of 45 dBA at existing residences
- Setback and mitigation requirements for neighboring land uses

Additional CI District Uses: The CI district allows a wide range of commercial and industrial activities beyond the proposed utility facility. These activities are permitted as Conditional Uses, subject to review and approval in accordance with the zoning ordinance, and include but are not limited to:

- Light manufacturing
- Truck terminals and freight warehouses
- Seed, fertilizer, and chemical storage and sales
- Agricultural-based industries such as ethanol plants and corn/soybean processing
- Livestock sales
- Contractors' shops and yards
- Wholesale distributing companies
- Welding and machine shops
- Custom processing and slaughterhouse activities
- Convenience stores/service stations
- Motels/hotels
- Adult uses (subject to Section 1227)
- Automotive tow/impound lots

Lot & Performance Standards:

- Minimum lot size: 3–5 acres depending on lot creation date
- Maximum building coverage: 50% of the lot area
- Performance standards regulate noise, odor, glare, vibration, sewage, fire hazards, and outdoor storage
- Section 1247 establishes mitigation requirements for Public and Private Utilities, including haul road agreements and compliance with state/federal standards

Rezoning Implications:

Rezoning to CI would permanently allow the full range of permitted and conditional uses within the district, regardless of whether the proposed Public and Private Utilities project ultimately proceeds. Approval of the rezoning does not itself authorize construction of a facility; a Conditional Use Permit and other regulatory approvals would still be required.

Deuel County Comprehensive Plan Analysis

Rezoning requests must be found to substantially meet the objectives, goals, and policies of the Deuel County Comprehensive Plan.

A. Commercial / Industrial Development Policies

The Comprehensive Plan provides that:

- Commercial and industrial development that can be accommodated in incorporated areas should be directed there.
- Scattered commercial and industrial development in rural areas should be discouraged unless directly tied to rural or agricultural activities.
- Development should cluster in designated or existing developed areas.

- Agricultural land should be protected from incompatible development.
- Industrial projects with potential environmental impacts should be carefully reviewed and directed to appropriate areas.
- Discourage the random and haphazard siting of commercial and industrial uses within rural areas where such uses do not support agricultural industries.

Rezoning 71 acres from AG to CI would introduce a district allowing a broad range of commercial and industrial uses in a rural agricultural area. The Boards must determine whether this action aligns with policies discouraging scattered industrial development and protecting agricultural land.

B. Agricultural Preservation Policies

The Comprehensive Plan further provides:

- The premature development of agricultural land should be discouraged.
- Discourage development patterns that require public improvements financed in part by the farming community but which are not necessary to support agriculture.
- Best management land practices must be employed to protect valuable agricultural land, soils, water supplies, and wildlife.
- Preserve agricultural lands and protect rural areas from uses which interfere with or are not compatible with general farming practices.
- Promote development patterns which avoid producing isolated agricultural land uses.
- When considering future land use decisions, the preservation of agricultural land should be of significance.

Additionally, the Plan notes that agricultural lands are not protected through land use controls; therefore, urban expansion that diminishes agricultural land results in permanent loss of agricultural production potential. This reinforces the importance of careful consideration when converting agricultural land to commercial or industrial zoning classifications.

The Boards must determine whether rezoning this property from AG to CI is consistent with these agricultural preservation objectives.

C. Development Stability & Infrastructure Policies

The Comprehensive Plan also provides:

- Areas designated appropriate for development stability will not experience public water and sewer extensions.
- Limit rural developments to densities that do not exceed current service levels.
- Protect construction aggregate resources by restricting adjacent land uses to those compatible with extraction operations.
- Regulate concentrated animal feeding, processing, and related operations to protect environmental quality and minimize conflicts with existing and future development.

These policies emphasize coordination of growth with infrastructure capacity and long-term planning objectives.

Staff Summary:

- The rezoning decision concerns whether the Commercial/Industrial District is appropriate for this property location. The Conditional Use Permit process evaluates whether the proposed facility meets ordinance standards for approval.
- The Boards must determine whether the full range of uses permitted within the Commercial/Industrial District is appropriate for this rural agricultural property.
- Rezoning to CI would permit not only the proposed Public and Private Utilities use (subject to CUP approval), but also the full range of commercial and industrial uses in Section 1102.
- Approval of this rezoning would permanently change the zoning classification of the property, regardless of whether the proposed utility project proceeds.
- The Comprehensive Plan discourages scattered industrial development in agricultural areas and emphasizes preservation of agricultural land and land use compatibility.
- The proposed moratorium indicates the County is evaluating whether additional regulations for Public Power Plant Facilities may be necessary.
- In evaluating a rezoning request, Boards typically consider consistency with the Comprehensive Plan, compatibility with surrounding land uses, and the long-term zoning implications of the district classification.

Staff Recommendation

Boards may consider the following motion:

Recommend approval of the rezoning to CI Commercial/Industrial District and forward the recommendation to the County Commissioners.

Alternative Actions Available to the Boards

1. **Recommend Approval**
Find that rezoning is consistent with the Comprehensive Plan and appropriate for the property location.
2. **Recommend Denial**
Determine the rezoning is inconsistent with Comprehensive Plan policies regarding agricultural preservation or rural development patterns.
3. **Table or Continue the Hearing**
Request additional information or allow further evaluation of the proposed moratorium or ordinance amendments.

Deuel County Commissioners – Rezoning Second Reading (April 7, 2026)

Options for the Board of County Commissioners:

1. Approve Rezoning
 - Change zoning to CI, determining consistency with the Comprehensive Plan and compatibility with surrounding land uses.
2. Deny Rezoning
 - Based on inconsistency with the Comprehensive Plan, agricultural preservation, incompatibility with surrounding uses, infrastructure constraints, or Area of Development Stability policies.
3. Table/Postpone Action
 - For additional study regarding Comprehensive Plan alignment, pending moratorium, ordinance amendments, and infrastructure/traffic impacts.

ITEM #2 – CONDITIONAL USE PERMIT (CUP)

Applicant: Missouri River Energy Services

Owners: James E. Peterson (James E. Peterson Living Trust)

Property Description: Record 4978 – E2SE4 EXCEPT THE WEST 9 RODS THEREOF, Section 7, Township 113 North, Range 48 West of the 5th P.M., Deuel County, South Dakota

Property Address: STR 7-113-48

Township: Scandinavia Township

Legal Acres: 71 Acres

Current Zoning: “AG” Agricultural District (CUP requires CI Commercial/Industrial District)

Requested CUP Use: Public and Private Utilities Facility

Request: Approval of a Conditional Use Permit for a **Section 1101.01.07 Public and Private Utilities facility**, contingent upon the property being rezoned to CI Commercial/Industrial District. The proposed project includes:

- Construction of a 145 MW Deuel Fuel Combustion Turbine Power Plant (natural gas/diesel).
- Construction of a 345 kV substation on approximately 20 acres located north of the existing underground Northern Border Pipeline.
- Development includes all buildings and associated balance of plant equipment and facilities.
- Refer to attached drawings in the packet for project layout and site details.
- This CUP request aligns with the South Dakota Public Utilities Commission (SD PUC) facility permit application under Docket EL25-028.

History / Procedure

- CUP application submitted to the Deuel County Zoning Office on February 19, 2026, concurrently with the rezoning application.
- Section 1247 of the Deuel County Zoning Ordinance allows Public and Private Utilities only as a Conditional Use in the CI District.
- Approval of the CUP requires prior rezoning to CI.
- CUP consideration may be scheduled on the same day as the rezoning hearing; however, staff recommends postponing action to April 13, 2026, following the second reading of the rezoning by the Deuel County Commissioners on April 7, 2026.
- The property is not located over a shallow aquifer (Zone B) and is not within a Wellhead Protection Area (Zone A).

CUP Requirements (per Section 1247)

1. Federal and State Compliance
 - All Public and Private Utilities shall meet or exceed standards and regulations of South Dakota State Statutes and any applicable federal or state regulatory agencies.
2. Mitigation Measures – Roads
 - Permittee shall identify all state, county, or township haul roads to be used and notify the governing body having jurisdiction for inspection and approval prior to construction.
 - Where practical, existing roadways shall be used; all-weather roads shall be used for cement, concrete, and heavy equipment transport.
 - Permittee shall make arrangements with the applicable governing body for construction, maintenance, and repair of haul roads affected by project activities.
3. **Setback – Noise**
 - Noise levels at residences shall not exceed 45 dBA, average A-weighted sound pressure.
 - Noise is to be measured at the perimeter of existing residences.
 - Property owners have the right to waive respective setback requirements, provided the waiver is in writing and filed with the Zoning Office.

Supplemental Information Submitted by Applicant ***(Received March 6, 2026)***

On March 6, 2026, Missouri River Energy Services (MRES) submitted supplemental information in support of the rezoning request and Conditional Use Permit application for the proposed Toronto Power Plant Project.

The supplemental filing provides additional technical and operational details regarding the proposed facility, its design, operations, and compliance with Deuel County Zoning Ordinance standards.

Project Ownership and Operation

Missouri River Energy Services (MRES) is a not-for-profit municipal power agency owned by 61 municipal electric utilities located in South Dakota, North Dakota, Minnesota, and Iowa.

Western Minnesota Municipal Power Agency (WMMPA) will own and finance construction of the facility. MRES will manage and operate the power plant once operational.

The facility is intended to support existing and future energy demands of MRES member utilities and their customers, including several municipal electric systems located in South Dakota.

The project is not being developed for a specific private industrial project or data center.

Facility Description

The proposed project is a 145-megawatt dual-fuel combustion turbine power plant capable of operating on:

- Natural gas (primary fuel)
- Fuel oil/diesel (backup fuel)

The site would occupy approximately 20 acres of the 71-acre parcel.

Major facility components include:

- Combustion turbine generator units
- Turbine hall and engine building
- Fuel gas supply and conditioning equipment connected to **the** Northern Border Pipeline
- Fuel oil storage and handling facilities
- Cooling systems and water treatment systems
- A 345 kV substation and generator step-up transformer
- Administrative offices and control room
- Electrical switchgear and auxiliary equipment buildings

The turbine exhaust stacks are proposed to be approximately 90 feet in height and will not require FAA lighting.

Fuel Storage

The facility will include:

- Two fuel oil storage tanks (345,000 gallons each)
- Secondary spill containment systems
- Compliance with the South Dakota Storage Tank Program

The fuel oil storage capacity is designed to allow approximately 60 hours of full-load operation if backup fuel is required.

Water Supply and Wastewater Management

Service water and fire protection water would be supplied by two onsite wells, stored in a 200,000-gallon fire/service water storage tank.

Additional water management components include:

- Water treatment equipment for turbine maintenance and cooling
- Wastewater collection tanks for plant drains
- Oil-water separator for non-contact wastewater
- Onsite septic system for sanitary waste
- Evaporation pond for certain non-contact water discharges

The facility is proposed to operate as a zero-discharge facility, meaning water would leave the site only through evaporation or offsite disposal.

Noise Analysis and Mitigation

A baseline noise monitoring study was conducted from October 14 through October 31, 2024 to determine existing background sound levels near the project site.

Noise modeling was performed using CadnaA acoustic modeling software, an industry-standard tool for industrial noise analysis.

Mitigation measures proposed include:

- Turbine intake and exhaust silencers
- Sound-rated building construction around turbine equipment
- Acoustic louvers on ventilation openings
- Noise limits incorporated into equipment procurement contracts

The project is designed to comply with the Deuel County Zoning Ordinance noise limit of 45 dBA at existing residences.

Lighting Mitigation

The facility lighting design will incorporate measures to reduce light pollution, including:

- Shielded lighting fixtures
- Downward-directed lighting
- Warm color lighting tones
- Lighting levels minimized to operational safety requirements

Lighting design is intended to follow DarkSky International outdoor lighting principles.

Traffic and Access

The facility will have two access points from County Road 315 / 479th Avenue.

Expected operational traffic is limited and includes:

- Approximately 6 full-time employees commuting to the facility
- Occasional fuel oil delivery trucks during winter operations
- Periodic maintenance contractor vehicles

Fuel deliveries are estimated at approximately 30–40 truck deliveries per year, typically during extreme winter conditions.

MRES indicates it will enter into haul road agreements with Deuel County and affected townships to ensure roads are maintained or restored following construction activities.

The South Dakota Public Utilities Commission may also require a road bond under SDCL 49-41B-38.

Transmission Line

The project includes construction of a 345 kV transmission line connecting the proposed power plant substation to the Astoria Substation located southeast of the site.

Transmission line easements are required from several property owners along the route. According to the applicant:

- Seven property owners have signed easement option agreements
- Two additional agreements are pending
- Negotiations continue with remaining landowners

Compatibility with Surrounding Land Uses

The applicant notes the project area already contains several forms of energy infrastructure, including:

- Wind turbines
- A wind turbine maintenance facility
- The Northern Border natural gas pipeline
- The Otter Tail Power Company Astoria Power Plant (approximately 4 miles away)
- The Astoria electrical substation

The applicant indicates the facility footprint represents a relatively small portion of the surrounding agricultural land base and that mitigation measures are intended to minimize potential impacts related to noise, lighting, traffic, and environmental effects.

Staff Summary:

- CUP approval is contingent on the outcome of the rezoning.
- CUP review will consider compliance with all CI district standards and Section 1247 requirements (federal/state compliance, haul roads, noise, and setback mitigation).
- **Staff recommends postponing final action until after the rezoning second reading, ensuring proper context for CI zoning**