

**DEUEL COUNTY PLANNING COMMISSION BOARD
STAFF REPORT**

Tuesday – May 16, 2023– 10:00 a.m.

DEUEL COUNTY PLANNING & COMMISSION

ITEM #1 REZONE

Applicant/Owners: Jeremy & Rachelle Wipf

Property Description: NE1/4NW1/4NE1/4 & W268' N661.47' NE1/4NE1/4 in Section Twenty (28), Township 113 North, Range 47, West of the 5th P.M., (Scandinavia Township) in Deuel County, South Dakota

Action Items –Rezone – (Article III Section 302)

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

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

History/Issue(s):

Specifics of Request

1. Jeremy & Rachelle Wipf seek the change of zoning to “AG” Agricultural District from “CI” Commercial/Industrial District, the above described (approximately) 13.35-acre parcel.
2. On June 16, 2020 Jeremy & Rachelle Wipf had requested to change of zoning to “CI” Commercial/Industrial District from “AG” Agricultural District, the above described (approximately) 13.35-acre parcel. So, they could apply for a Special Exception to operate an auto and equipment sales business, spray foam business and to have and residence in a Commercial/Industrial District.
3. This property is not located in an aquifer or flood plain.
4. The subject parcel has been improved and with the updated Deuel County Zoning Ordinance #B2022-01, Section 1102.03: Special Exceptions listed was 13: Single family residences are no longer permitted in the Commercial/Industrial District - only in the Agricultural and Lake Park District. As such, adding on to your existing house is nonconforming as currently zoned and I could not grant a permit for that expansion or even a new deck.
 - a. The applicant would like to move old house and convert old barn into a residence.
5. Ordinance #B2022-01, under the Extended Home Occupation, there were some changes. One change is under a. it states a. Those businesses that support agricultural needs to include but not limited; and others, which in the opinion of the Board of Adjustment, would not conflict with adjoining land uses. The older version did not have that verbiage, it Auto Sales was only allowed in the Commercial/Industrial District: which is why your land had to be rezoned. Since we talked and you are not doing the Auto Sales and just doing the Spray Foam business it would fall under Extended Home Occupation.

Section 1210. Extended Home Occupation. There are significant differences between home occupations and extended home occupations. While each use is based on supplementing income, the location and type of business in which each is practiced has unique characteristics. Specifically, a home occupation is conducted within the primary structure (residence) while an extended home occupation is conducted in an accessory building.

 1. For the purpose of this section, provided all requirements are met, the following shall be considered extended home occupations:
 - a. Those businesses that support agricultural needs to include but not limited to vehicle and implement repair, implement sales, welding repair; veterinarian’s office; seed sales; and others, which in the opinion of the Board of Adjustment, would not conflict with adjoining land uses.
6. The Zoning Office suggest that you apply to rezone the NE1/4NW1/4NE1/4 & W268' N661.47' NE1/4NE1/4 in Section 28-113-47, Scandinavia Township from Commercial/Industrial District to Agricultural. Then apply for a

Conditional Uses permit #16: Extended Home Occupation (spray form business) as it is now allowed. The simplest would be to rezone from Commercial/Industrial District to Agricultural since that district is less restrictive.

7. Deuel County Comprehensive Plan (Comp Plan):

A. Rezoning's need to substantially meet the objectives, goals, and policies of the Comp Plan for both the type of use and the "Residential Development Area" the proposal is located within.

B. Regarding Agricultural District:

- The Boards need to determine whether failure to meet the following 1 (of 7) Agricultural District Development Policies is sufficient reason to deny the rezoning request:

- Restrict the density of residential uses and direct higher development densities to the municipalities (incorporated and unincorporated) and sanitary sewer districts.

Some if these policies are discarded since there was a prior residence on the property prior to the Comprehensive Plan was prepared in 2004.

C. Regarding Area of Development Stability:

- These policies are applicable because the property would be in the Area of Development Stability if not over the shallow aquifer.
- The Boards need to determine whether failure to meet the following 2 (of 7) Area of Development Stability Policies is sufficient reason to deny the rezoning request:
 - Discourage development patterns that require public improvements financed in part by the farming community but which are not necessary to support agriculture.
 - Promote development patterns which will avoid producing inflated agricultural land values.

8. Staff Summary:

- **The question before the Board is NOT whether any certain use is appropriate at this property but whether ALL the uses allowed in the Ag District are appropriate at this property. The Board has rezoned properties in the Area of Development Stability which do not meet the goals referenced in 7.C. before. However, in order to rezone this property, the Board needs to determine that this and all other uses listed in the AGRICULTURAL District DO NOT POTENTIALLY propose a threat or hardship and should be compatible with adjacent land uses.**

9. Staff recommendation:

- **The Board could approve for the change of zoning to "AG" Agricultural District from "CI" Commercial/Industrial District, on the above property on the basis that failure to meet 3 of 14 policies is insignificant in light of the 11 policies that ARE met; however, the Board should specifically address the prohibition on rezoning property with a potential pollution risk to establish policy moving forward for future requests.**
- **The Board could deny the request based on any of the 3 policies not met by this request.**