

AGENDA

MONTROSE CITY PLANNING AND ZONING COMMITTEE

March 9, 2021 Following Adjournment of Montrose City Council in the Community Center

PLEDGE OF ALLEGIANCE

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

Public Hearing on Rezone Request for East 12' of Lot 7 and all of Lot 8 Blk 16 OT at 104 W Kluckholm, Montrose, SD 57048 Applicant Jacob Tysdal

Recommend Approval or Rejection of Rezone Request to the Montrose City Council

ADJOURN

ADJOURN NOTE: No changes will be made to the agenda within 24 hours of the Council meeting.

## Zoning Ordinance Amendments

### Basic Steps

1. Property owner files application to change zoning of property.
2. Zoning Administrator (Finance Officer) schedules re-zone request for a Planning Commission Public Hearing.
  - a. Notice of public hearing published at least 10 days prior to Public Hearing.
  - b. Sign (24"x18") posted on property of re-zone request.
  - c. Zoning Administrator notes comments on request.
  - d. P&Z Public Hearing
    - i. Must be listed on agenda as Re-Zone Public Hearing.
    - ii. P&Z board reviews request, Zoning Admins comments, and public comment.
    - iii. P&Z board makes recommendation to approve or not approve.
3. Zoning Administrator schedules re-zone request for a City Council Public Hearing.
  - a. Notice of public hearing published at least 10 days prior to Public Hearing.
  - b. Sign (24"x18") posted on property of re-zone request.
  - c. Zoning Administrator includes comments on request, may include additional comments made at P&Z meeting, includes P&Z recommendation
  - d. City Council Public Hearing
    - i. Must be listed on agenda as Re-Zone Public Hearing and First Reading.
    - ii. Council reviews request, Zoning Admins comments, P&Z recommendation, and public comment.
    - iii. Council does not move to approve. Instead, state that this is first reading and announce Second Reading/Adoption date if known.
4. Second Reading and Adoption held at least 5 days after Public Hearing.
  - a. May take place at next regular meeting or at a special meeting.
  - b. Does not need to be published in newspaper.
  - c. Agenda must include listing as Re-zone – Second Reading and Adoption
  - d. Ordinance to be read and vote taken.
5. Publication:
  - a. If re-zone approved:
    - i. Publish ordinance text in newspaper twice.
    - ii. Ordinance is effective 20 days after 2<sup>nd</sup> publication.
  - b. If re-zone denied:
    - i. If denied nothing changes, petitioner may reapply if they choose.

### In Depth Steps

Step One: Zoning Ordinance Amendments are either text amendments or petitions to re-zone properties. There are some additional requirements for re-zones. Typically, text amendments originate from City Staff, while re-zone requests come from residents. However, this may not always be the case. If it comes from the public, your zoning ordinance requires they fill out an application stating what they want to do. From there, the Zoning Administrator reviews the

proposed amendment/re-zone request and writes down his/her comments for the Planning Commission to review.

Step Two: The Zoning Administrator schedules the proposed amendment/re-zone request for a Planning Commission public hearing. Notice of the public hearing must be published in the legal newspaper of the City at least ten days prior to the date of the public hearing. See also SDCL 1-25-1.1. SDCL 11-4-4.4 also applies for re-zones (sign on property).

- At the public hearing, the Planning Commission will review the text of the proposed amendment/re-zone, the Zoning Administrator's comments, and any input from the general public.
- At the end of the public hearing, the Planning Commission will decide whether to recommend or not recommend approval of the proposed amendment/re-zone to the City Council. This is a simple majority vote.
  - Regardless of whether it is recommended or not recommended, it proceeds to the City Council.

Step Three: The Zoning Administrator schedules the proposed amendment for a City Council public hearing. Notice of the public hearing must be published in the legal newspaper of the Town at least ten days prior to the date of the public hearing. See also SDCL 1-25-1.1. SDCL 11-4-4.4 also applies for re-zones (Sign on property).

- At the public hearing, the City Council will review the contents of the proposed amendment/re-zone request, the Zoning Administrator's comments, the recommendation of the Planning Commission, and any input from the general public.
- At the end of the public hearing, the City Council does not vote on the proposed amendment. Instead, the process from this step forward mirrors the process for adopting a standard Municipal Ordinance. The public hearing counts as the "first public reading."

Step Four: The City Council shall hold a "second public reading" at a meeting not sooner five days from the "first public reading." Unlike the prior steps, this does not involve a public hearing. This can take place at any regular meeting or special meeting of the City Council. The important thing is to make sure the Amendment/Re-Zone Request – Second Reading is included on the agenda. After any discussion, the City Council will vote on whether to adopt the proposed amendment/re-zone request. This is a simple majority vote.

Step Five: If adopted, the text of the amendment must be published once per week for two weeks in the legal newspaper of the City. The amendment becomes effective 20 days after the second date it appears in the newspaper, unless a referendum is invoked.

### **South Dakota Codified Laws that relate to adopting an ordinance amendment**

SDCL 1-25-1.1. Notice of meetings of public bodies other than the state and its boards, commissions, and departments--Violation as misdemeanor. All public bodies, except the state and each state board, commission, or department as provided in § 1-25-1.3, shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any meeting, by posting a copy of the notice, visible to

the public, at the principal office of the public body holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the public body's website upon dissemination of the notice, if such a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each public body shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

SDCL 9-19-7. Reading, passage, and publication of ordinances--Codes incorporated by reference. The title of all ordinances shall be read twice with at least five days intervening between the first and second reading. The ordinance shall be signed by the mayor or acting mayor or president of the Board of Trustees, filed with the auditor or clerk, and published once except that an ordinance incorporating and adopting comprehensive regulations or a code promulgated, approved, and published by a recognized and established national organization prescribing building, electrical, plumbing, safety, fire, health, or milk regulations need not be published in a newspaper, but upon adoption of such an ordinance the auditor or clerk shall publish a notice of the fact of adoption once a week for two successive weeks in the official newspaper, and twenty days after the completed publication of such notice, unless the referendum shall have been invoked, such ordinance shall become effective.

SDCL 9-19-7.1. Notice requirements for substantial amendment at second reading. If any amendment presented and approved by the governing body at the second reading of an ordinance substantially alters the substance of the ordinance from the first reading, the proposed ordinance as amended may not be considered for final adoption until at least five days after a duly noticed public meeting of the governing body pursuant to chapter 1-25.

SDCL 9-19-9. Recording of votes on ordinances. The vote upon all ordinances upon the second reading and to pass the same over any veto shall be taken by yeas and nays and entered upon the minutes of the meeting.

SDCL 11-4-4. Notice and hearing of proposed zoning ordinance required. The governing body may adopt a zoning ordinance. Before adoption or renewal of the ordinance, the council shall hold at least one public hearing. Notice of the time and place of the hearing shall be given once at least ten days in advance by publication in a legal newspaper of the municipality. Any interested person shall be given a full, fair, and complete opportunity to be heard at the hearing, and the governing body may refuse or adopt the ordinance, with or without amendment.

SDCL 11-4-4.4. Sign to notify public about petition and hearing on zoning change or conditional use permit. If a landowner petitions a governing board of a municipality for a change in the zoning applied to the landowner's land or petitions a board for a conditional use permit and a local ordinance requires the landowner to post a sign to notify the public about the petition and the hearing on the petition, the sign must be at least twenty-four inches wide and eighteen inches tall with bold lettering to inform the public about the petition and hearing. This section does not preempt any requirement provided in any state law or municipal or county ordinance.

SDCL 11-4-5. Reading, passage and publication of ordinance--Protest by landowners in district--Flood plain ordinance not subject to protest. If a zoning ordinance is adopted, the ordinance is subject to the provisions of § 9-19-7 as a comprehensive regulation unless the referendum is invoked, or unless a written protest is filed with the auditor or clerk, signed by at least forty percent of the owners of equity in the lots included in any proposed district and the lands within two hundred fifty feet from any part of the proposed district. A corporation is construed to be a sole owner, and if parcels of land are in the name of more than one person, ownership representation is in proportion to the number of signers who join in the petition in relation to the number of owners. If a protest is filed, the ordinance does not become effective unless the ordinance is approved by two-thirds of the governing body of the municipality. The protest provisions of this section do not apply to any ordinance regulating or establishing flood plain areas.

SDCL 11-4-8. Changes in regulations--Notice and procedure. Regulations, restrictions, and boundaries adopted pursuant to this chapter may be amended, supplemented, changed, modified, or repealed. Any such modification or repeal shall be proposed in an ordinance presented to the governing body for adoption in the same manner and upon the same notice as required for the adoption of the original ordinance. However, amendments or additions to a subdivision or zoning ordinance may be published without republishing the full ordinance if the section or subsection of the ordinance containing the change is published in its entirety.

SDCL 11-4-12. Planning and zoning commission--Hearings and notice--Final recommendation. The planning and zoning commission, when appointed, shall hold public hearings, subject to the same notice requirements as provided in § 11-4-4, before submitting its recommendation, and the governing body may not hold its public hearings or take action until it has received the recommendation of the commission.

**CITY OF MONTROSE**  
**RE-ZONING APPLICATION**

PLANNING & ZONING COMMISSION  
CITY COUNCIL

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Name of Applicant: Jacob Tysdal

Address of property for re-zone: 104 <sup>WEST</sup> ~~EAST~~ KLUCKHOLM ST

Montrose SD Zip Code 57048

Phone (605) 940-7822 Date: 1-27-21 Fee: \$75.00 Paid: yes  no

Rec 2/1/21  
V# 3309  
ASG

Present Zoning: Residential Proposed Zoning: Commercial

Signature of Present Owner of Record: [Signature]

Legal Description of Property: E 12' of LOT 7 And all of LOT 8 Block

Describe Purpose of Re-Zoning: Montrose Original Town  
(Attach map and designate location of property.): \_\_\_\_\_

Zoning Administrator Comments: \_\_\_\_\_

Planning & Zoning Commission Comments: \_\_\_\_\_

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Planning & Zoning Meeting: \_\_\_\_\_ Time: \_\_\_\_\_

Publish Date: \_\_\_\_\_ Posting Date (on property): \_\_\_\_\_

Action Taken: \_\_\_\_\_

City Council Meeting: \_\_\_\_\_ Time: \_\_\_\_\_

Publish Date: \_\_\_\_\_ Posting Date (on property): \_\_\_\_\_

Action Taken: \_\_\_\_\_

BLOCHHOLM ST

30"

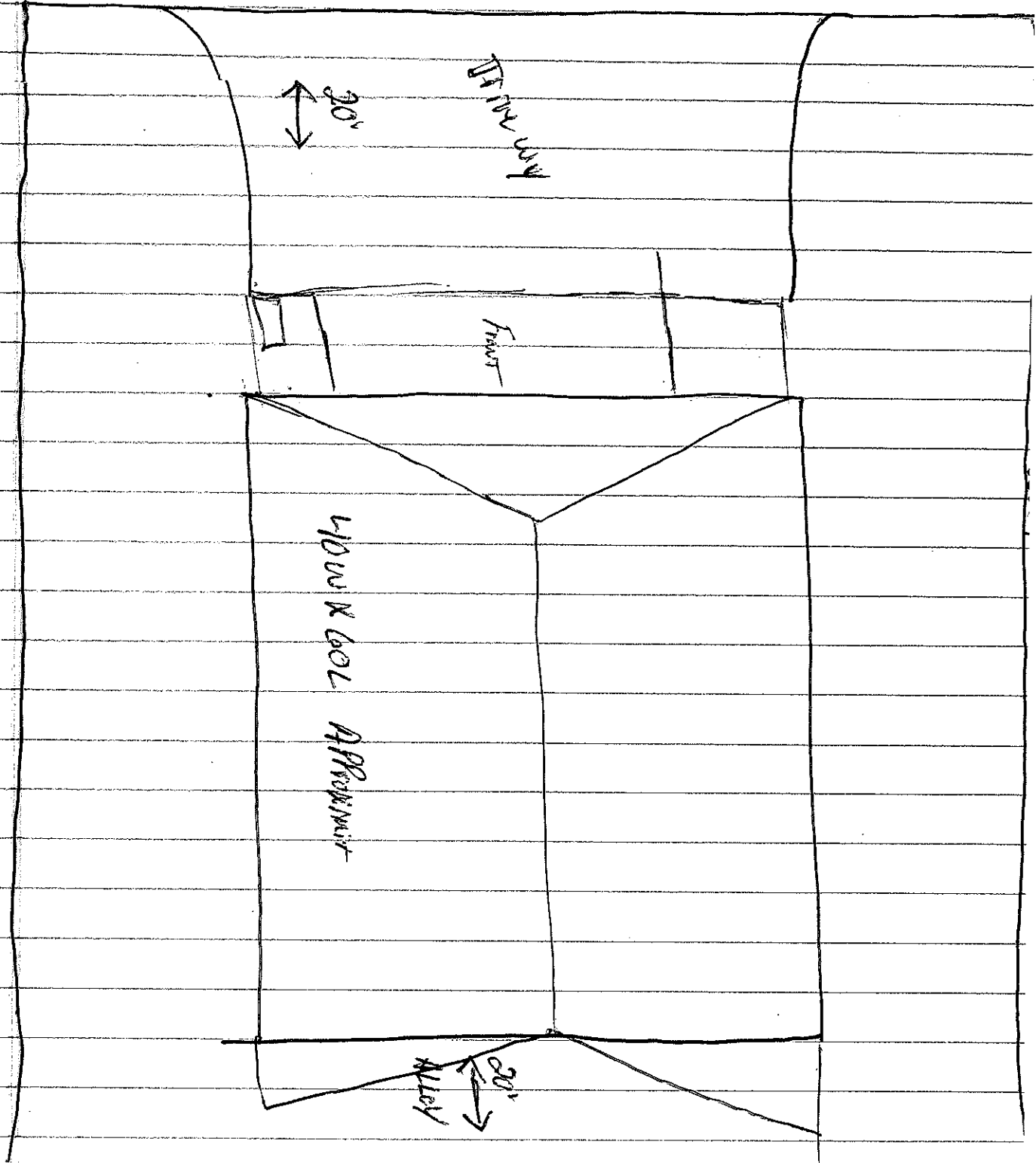
DRIVEWAY

FRONT

EAST

WOOD & COAL APPROXIMATE

30"  
ALLEY



## City of Montrose SD

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**From:** Kory Okeson  
**Sent:** Wednesday,  
**To:** montrose@g  
**Subject:** zoning comn

**Flag Status:** Flagged

The rezoning of the property on 104 W Kluckholm st.

Questions, concerns, and comments I have.

1. With the property surrounded by residential properties will there should be a higher standard for commercial use? What's the standards for clutter, equipment size, junk, pallets, tires, etc. on commercial property in residential areas?
2. Is there a difference from residential to commercial, in regulations on buildings height, size and location on property?
3. Looking around the town, on residential clutter, that isn't being addressed by the city. How will commercial clutter be regulated?
4. I bought into residential neighborhood not industrial park.
5. Would you committee member as residential owner, be ok with what is being purpose, be right next to your house?
6. I know the city wants revenue and the rezoning will help a local business. But it affects surrounding residential home owner. They are the ones being affected by the scenery and property value lose.
7. If this property is rezoning and it affects the selling or value of my property, legal actions will be taken.

I have to work Tuesday nights so I cannot attend the meeting. If any committee member has questions on my inquiries, please call me.

Kory Okeson



Montrose, S.D.

March 1, 2021

Dear City Council,

As longtime Montrose citizens, we are concerned with the zoning of First Ave. It is understandable that tax dollars need to be generated by the lots of the flood plane, so industrial buildings are not our concern. We are concerned with the areas outside of the structures. Please implement regulations to keep parts etc. undercover allowing the industrial area to be an asset to the neighboring homes and not an eye sore to the community. We trust your concern to keep Montrose a family friendly environment with zoning to be considerate of all citizens.

Thank you,

Concerned Montrose Citizens

*Judy Donelan*  
*Donna Jorgensen*  
*Ann Rieck*  
*Lenice Kingen*