

BROADWATER COUNTY COMMISSIONERS

515 Broadway, Townsend

Meetings are held at the Flynn Building (old Opportunity Bank) 416 Broadway.

Meetings may be viewed on the website at <https://www.broadwatercountymt.com/home/pages/board-videos>. Public comment is taken either in writing in advance of the meeting or in person at the meeting.

Working meetings are held in various locations, please review the notice of the working meeting to determine the location. Working meetings are not recorded and as a result are not available on the website.

Agenda, documents, official meeting minutes and videos of past Commission meetings are available at <https://www.broadwatercountymt.com>.

OFFICIAL agendas are posted in the Courthouse (1st floor bulletin board), Broadwatercountymt.com, on the bulletin board on the 1st Floor of the courthouse, and in the window of the Flynn Building at least 48 hours in advance of the meeting.

Monday, November 14, 2022

- 10:00 AM** Discussion and Decision, Nichole Brown, Community Development Director, Helsen Aggregation COS
- 10:10 AM** Discussion and Decision, Nichole Brown, Community Development Director, Kurtz Family Transfer COS/Boundary Relocation
- 10:20 AM** Discussion and Decision, Nichole Brown, Community Development Director, Brady (BLR) Building for Lease or Rent
- 1:00 PM** Closed Door Meeting Litigation Strategy

Wednesday, November 16, 2022

- 9:30 AM** Post Election Audit, Commissioner's Office

Public comment period (on items not on the agenda) will be at the beginning of each meeting. Mail & Items for Discussion and/or signature may occur as time allows during the meeting. Issues and times are subject to change.

Items for Discussion / Action / Review / Signature – Consent Agenda

- ✓ Certificate of Survey review
- ✓ Management – on-going advisory board appointments
- ✓ Claims/Payroll/minutes
- ✓ County Audit / Budget
- ✓ Mail – ongoing grants
- ✓ Correspondence – support letters

Debi Randolph 406-266-9270 and 406-980-2050

Darrel Folkvord Chairperson 406-266-9272 and 406-980-1213

Mike Delger 406-266-9271 and 406-521-0834

E-mail commissioners@co.broadwater.mt.us

**Please note that these times and dates may change. For the most recently updated information, please visit our website at www.broadwatercountymt.com.*

Future Meetings

November 15 Trust Board Meeting
November 15 Planning Board Meeting
November 16 Airport Board Meeting
November 17 Fair Board Meeting
November 21 General Election Canvas
November 23 Commission Meeting
*November 24 **Thanksgiving-County Offices are Closed***

REQUEST FOR EXEMPTION REVIEW

Note to Applicant: The purpose of this review is to enable Broadwater County officials to determine whether or not the proposed use of an exemption from local subdivision review would evade the Montana Subdivision and Platting Act.

Part One. Applicant Information

Landowner(s): Monique Helsen & Steven Helsen
Address: 225 Clifden Dr Bozeman MT 59718
Telephone Number(s): 406 570 8200

Landowner Representative: Schauber Survey
Address: 64 Jack Farm Road Phone: 406-266-4602

Part Two. Legal Description: MORAWSKI MINOR S01 T06 N R01E LOT 2-A COS 2-53
AND - CRIMSON BLUFFS S01 T06 N R01E LOT 5 COS 2-137

Part Three. Basis for Exemption Request:

What exemption is being claimed, and what is the basis for your exemption claim?

Aggregation of lots / Boundary Relocation

Combining lots to allow main house and out buildings to be on the same lot

Part Four. Supporting Information: Please provide all pertinent information, including an accurate certificate of survey or amended subdivision plat, as applicable and where required. A subdivision exemption review fee must be submitted with the exemption request.

AFFIDAVIT: I hereby certify that the purpose of this exemption request is NOT to evade the Montana Subdivision and Platting Act. Dated this 8 day of Sept, 2022

Signature(s): Monique Helsen
Steve Helsen

Certificate of Governing Body:

We, the Board of County Commissioners, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the Subdivision and Platting Act, Section 76-3-101 et. seq. MCA, and the Broadwater County Subdivision Regulations.

Dated this _____ day of _____, A.D., 20_____

Commissioner

Commissioner

Commissioner

C&R Attest

Relocate Boundaries Between Adjacent Properties in Immediate Family Member 1/4 of Section 6, Township 5 North, Range 2 East, Broadwater County, Montana

Legal Descriptions:

2nd Amended Tract D

A tract of land being part of Amended Tract D of Certificate of Survey as filed in Book 2 of Plats, Page 642 situated in part of the NE 1/4 of Section 6 and part of the NW 1/4 of Section 5, Township 5 North, Range 2 East, P.M.M., Broadwater County, Montana and being more particularly described as follows: Commence at the N 1/4 of said Section 6; Thence along the north line of said Section 6 S89°34'42"E for a distance of 440.77 feet to the NW corner of herein described tract of land and True Point of Beginning; Thence continuing along said north line of said Section 6 S89°34'42"E, a distance of 1855.35 feet; Thence leaving said north line S00°00'00"E, for a distance of 300.00 feet; Thence N90°00'00"E, for a distance of 911.01 feet to a point in the centerline of River Road; Thence along said centerline S2°29'47"W, for a distance of 529.78 feet; Thence leaving said centerline S89°56'54"W, for a distance of 1540.33 feet; Thence N90°00'00"W, for a distance of 974.78 feet; Thence N13°12'13"W, for a distance of 867.27 feet to the True Point of Beginning, said parcel being 44.68 Acres more or less and being served by and subject to rights-of-way and easements as shown, existing, or of record.

Amended Tract G

A tract of land being part of Amended Tract D of Certificate of Survey as filed in Book 2 of Plats, Page 642 and all of Tract G of Certificate of Survey filed in Book 2 of Plats, Page 552 being situated in part of the NW 1/4 of Section 5 and part of the NE 1/4 of Section 6, Township 5 North, Range 2 East, P.M.M., Broadwater County, Montana and being more particularly described as follows: Commence at the W 1/4 Corner of said Section 6: Thence N89°44'44"E to a point in the centerline of River Road and True Point of Beginning; Thence leaving said centerline N54°09'09"W, a distance of 1831.13 feet; Thence S90°00'00"W, for a distance of 637.80 feet; Thence N13°12'13"W, for a distance of 740.67 feet; Thence S90°00'00"E, for a distance of 974.78 feet; Thence S41°23'52"E, for a distance of 961.28 feet; Thence S90°00'00"E, for a distance of 906.29 feet to a point in the aforementioned centerline of River Road; Thence along said centerline the following four (4) courses: along a 677.67 foot radius curve to the left an arc distance of 133.65 feet, chord bears S8°38'32"E 133.43 feet; Thence S14°17'32"E, a distance of 110.50 feet; Thence along a 700.00 foot radius curve to the right an arc distance of 578.08 feet, chord bears S9°21'57"W 561.79 feet; Thence S33°01'26"W, a distance of 332.85 feet to the True Point of Beginning, said parcel being 43.59 Acres more or less and being served by and subject to rights-of-way and easements as shown, existing, or of record.

Tract A

A tract of land situated in part of the NW 1/4 of Section 5 and part of the NE 1/4 of Section 6, Township 5 North, Range 2 East, P.M.M., Broadwater County, Montana and being more particularly described as follows: Commence at the N 1/4 Corner of said Section 6; Thence along the north boundary of said Section 6 S89°34'42"E for a distance of 440.77 feet; Thence leaving said north boundary S13°12'13"E for a distance of 867.27 feet; Thence S90°00'00"E for a distance of 974.78 feet to the NW corner of herein described tract of land and True Point of Beginning; Thence N89°56'54"E, a distance of 1540.33 feet to a point in the centerline of River Road; Thence along said centerline the following two (2) courses: Thence S2°29'47"W, for a distance of 658.23 feet; Thence along a 677.67 foot radius curve to the left an arc distance of 64.92 feet, chord bears S00°14'53"E 64.90 feet; Thence N41°23'52"W, for a distance of 961.28 feet to the true Point of Beginning, said parcel being 20.50 Acres more or less and being served by and subject to rights-of-way and easements as shown, existing, or of record.

Landowner's Certification:

I hereby certify the purpose of this division of land is to Transfer Parcel shown as Tract A on this Certificate of Survey

Tract A To: _____ Relationship: Father

Pursuant to 76-3-207 (1) (b) M.C.A. which states: (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the governing requirements of 76-3-401.

Found 1/2" Rebar with
Swenson Alum Cap (No. 15279)
30.03' Witness Corner

C/L River Rd (60' wide)

REQUEST FOR EXEMPTION REVIEW

Note to Applicant: The purpose of this review is to enable Broadwater County officials to determine whether or not the proposed use of an exemption from local subdivision review would evade the Montana Subdivision and Platting Act.

Part One. Applicant Information

Landowner(s): Johnny Kuntz
Address: 9152 River Rd
Telephone Number(s): 406-595-8091

Landowner Representative: Schauber Survey
Address: 64 Jack Farm Road Phone: 406-266-4602

Part Two. Legal Description: _____

Part Three. Basis for Exemption Request:

What exemption is being claimed, and what is the basis for your exemption claim?

Boundary Relocation
, Neighbor wants property for pasture

Part Four. Supporting Information: Please provide all pertinent information, including an accurate certificate of survey or amended subdivision plat, as applicable and where required. A subdivision exemption review fee must be submitted with the exemption request.

AFFIDAVIT: I hereby certify that the purpose of this exemption request is NOT to evade the Montana Subdivision and Platting Act. Dated this 6 day of October, 2027.

Signature(s): Johnny Kuntz _____

Certificate of Governing Body:

We, the Board of County Commissioners, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the Subdivision and Platting Act, Section 76-3-101 et. seq. MCA, and the Broadwater County Subdivision Regulations.

Dated this _____ day of _____, A.D., 20_____

Commissioner

Commissioner

Commissioner

C&R Attest

**Certificate of Survey Exemption Affidavit
Broadwater County**

**Gift or Sale to Immediate Family Member
Section 76-3-207(1)(b), MCA.**

When a landowner requests to be exempt from the Subdivision and Platting Act, state law requires Broadwater County determine whether the request is an attempt by the property owner to evade subdivision regulation. Broadwater County will use the information provided by the applicant in this affidavit as well as other evidence when making its determination.

Please complete both sides of this application. Every owner of the property (owners of record) must sign this affidavit. Use additional sheets of paper if necessary.

A. Name of Landowners:

Johany Kurtz Phone: 406-595-3091

_____ Phone: _____

_____ Phone: _____

B. Number of Parcels Proposed: 1

C. Size of Each Parcel Proposed: 20.5 AC, _____, _____, _____

D. Name and Relationship to Landowner of Family Member(s) Receiving Gift Parcel(s)

Name Gideon Kurtz Relationship Father

Age: 53 Current Mailing Address: 3230 HWY 747

_____ MONTANA IA 50713

Name _____ Relationship _____

Age: _____ Current Mailing Address: _____

Name _____ Relationship _____

Age: _____ Current Mailing Address: _____

Name _____ Relationship _____

Age: _____ Current Mailing Address: _____

A "member of the "immediate family" may include only the grantor's spouse, children by blood or adoption, and parents.

E. History of the Parcel:

1. To your knowledge, have any exemptions been used to divide this property after July 1, 1973, including exemptions for mortgage tracts, gift or sale to an immediate family member, boundary line relocation, occasional sale? *See Sections 76-3-201 and 76-3-207, MCA.*

 Yes No *If "yes", provide the chronological history of divisions and attach a copy of a Certificate of Survey or Deed evidencing the divisions:*

Date	Exemption	Tract Label	Tract Size	COS No. or Deed No.
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

2. To your knowledge, in regard to this property, did you or any previous owner ever attend a pre-application conference or submit for subdivision review of any part of this property, since July 1, 1973? Was any subdivision denied?

 Yes No *If YES, explain:* _____

F. Proposed Exemption Information

To your knowledge:

1. Will each new parcel be used as a homesite for a family member?

Yes No *If NO, explain:* _____

2. Could the transfer be accomplished by a "relocation of common boundary lines"?

 Yes No *If YES, explain:* _____

3. Will the newly created parcels become one of three or more parcels created from the original parcel after July 1, 1973?

Yes No **If YES, explain:** _____

4. Would the use of the family gift exemption violate any statute, case law, administrative rule, or Attorney General Opinion?

Yes No **If YES, explain:** _____

5. Does the parcel to be transferred fit a pattern of land divisions and land transfers?

Yes No **If YES, explain:** _____

6. Have any divisions of land ever been denied on this property?

Yes No **If YES, explain:** _____

7. Is the parcel being transferred to a family member who is a minor?

Yes No **If YES, please provide a draft Trust document.**

8. Are you transferring a parcel to your spouse?

Yes No **If YES, explain:** _____

9. Do you agree that you and/or your family member receiving this property will not sell any of the tracts created under the family transfer exemption for a period of two (2) years unless you or the recipient files for subdivision review?

Yes No

If your life circumstances change per a birth, death, divorce, illness, etc. you may request an exemption to the two (2) year time period from the County Commissioners.

Under penalties of perjury, I (we) declare that I (we) have examined this affidavit and the accompanying sketch or draft Certificate of Survey of the proposed division of land, and to the best of my (our) knowledge and belief, they are true, correct, complete and are in compliance with all State laws and local regulations.

Date 10-20-22, 20 .

Signature of Each Applicant:

Jelmy Mtz _____

Signature of Each Recipient:

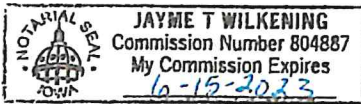
Dillon Kutz _____

STATE OF Iowa)
County of Marshall) : ss.

On this 20 day of October, 2022.

personally, appeared before me and having been duly sworn did herein execute the above instrument for the purposes stated.

Notary's Seal/Stamp



Jayme J. Wilkening
Notary Public for the State of Iowa

Jayme T Wilkening
Printed Name

Notary Public for the state of Iowa

Residing at Marshall Co.

My Commission expires: 10-15, 2022

****If the Survey Review Committee grants concept or survey approval to a proposed exemption, that approval is valid only for ninety days, subject to any legislative changes.****

STAFF REPORT
FOR THE BRADY STORAGE UNITS

Date: October 27, 2022

Type of Application: Buildings for Lease or Rent (BLR)

Name of Project: Brady Storage Units

Number of Units: 68

Legal Description: Located in SW ¼ of Section 3, T2N, R1E, P.M.M., Broadwater County, Montana

Landowner: Pat Brady

Designated Representative: Aaron Peters

Commission Meeting Date(s): November 7, 2022

Staff Recommendation: Adopt findings of fact and recommend approval, subject to conditions.

Report written and presented by Nichole Brown, Broadwater County Community Development Director

INTRODUCTION

This report presents findings of fact and recommended conditions of approval for the project. It is organized in two main sections:

1. Findings of Fact, which includes a general description of the project (Project Summary) and findings based on the applicable review criteria, and
2. Recommended Conditions of Approval, based on the findings of fact and the Broadwater County Buildings for Rent or Lease Regulations (BLR Regulations)

FINDINGS OF FACT

Project Summary

1) Proposal

Pat Brady is proposing to rent 68 storage units on an existing 659 acre parcel. The property is located at the intersection of US Highway 287 and Old Town Road. The property is currently undeveloped with only an existing shed on the entire parcel.

The owner is proposing to construct two buildings containing the 68 enclosed storage units and two separate outside parking areas for vehicles, campers, RVs and for boat storage. The North building will be 30 feet by 200 feet for a total of 6,000 square feet. The North building will consist of twelve 5 foot by 10 foot units on each end and thirty-six 10 foot by 15 foot units in between. The South building will be 50 feet x 300 feet for a total of 15, 000 square feet. The South building will consist of twenty 15 by 50 foot units.

Access to the storage unit facility will be via Old Town Road, a county road. Prior to construction of the facility a County Road Approach Permit must be approved by the Broadwater County Public Works Director.

2) Project Characteristics

Size:	659 acres
Present land use:	Vacant land with one shed for the owner's personal use
Access:	Approach to Old Town Road
Utilities:	No current utilities to the property, but power for outdoor lighting is anticipated
Water/Sewer:	None proposed

Adjacent land uses: Residential and Agricultural
Zoning: This property is not currently zoned
Covenants: None proposed

3) Findings

This application is being reviewed according to the Application & Review of Building for Lease or Rent (Section 6) of the BLR Regulations. Evaluation of the application's compliance with Section 6 of the BLR Regulations is discussed below, with recommended conclusions summarizing findings based on each evaluation.

a. Compliance with Section 6.A of the BLR Regulations

Section 6.A of the BLR Regulations outlines what is required of an "Application Submittal" for a BLR Application. The application and review fees were submitted to the Broadwater County Community Development Office on July 27, 2022 and additional material was submitted and deemed sufficient on September 8, 2022. All of the required documents have been submitted.

4) Review Process

This application is being reviewed according to the Review Process outlined by Section 6.B of the BLR Regulations. The following is the timeline of the application:

- The applicant's representative submitted the application and fees on July 27, 2022
- A letter of incompleteness, requesting additional information, was mailed to the applicant's representative on August 4, 2022
- The applicant's representative submitted the requested information on September 8, 2022
- The application was deemed complete on September 12, 2022
- The County Commissioners are scheduled to review the application November 7, 2022
- The County Commissioners must send a letter to the landowner of the approval, conditional approval or denial of the application prior to the end of the 60 day review period (December 8, 2022)

5) Relevant Review Criteria

The recommended findings of the reviewer are stated below and are based on the BLR Application materials provided by the applicant's representative and in

accordance with the Governing Body Decision (Section 6.C) of the 2014 Broadwater County Building for Lease or Rent (BLR) Regulations.

Per Section 6.C of the BLR Regulations, the governing body may approve or conditionally approve the proposed buildings for lease or rent upon finding:

- a. The proposed buildings for lease or rent, as submitted or conditioned, comply with these regulations and other regulations applicable to the property, and avoid or minimize potential significant impacts on the physical environment and human population in the area affected by the buildings for lease or rent;

The BLR Regulations do not include specific design or performance standards that are applicable to the project, but rely on the review criteria and administrative provisions of the regulations, which the project complies with. For this application, no other regulations are applicable since the land, buildings and units will remain under the ownership of the applicant.

- b. Adequate water, wastewater, and solid waste facilities are available to serve the buildings for rent or lease;

No water, wastewater or solid waste facilities are proposed for this storage unit facility.

- c. Adequate access to the site is provided to serve the buildings for lease or rent;

There is one proposed access for entering and exiting the property. The access is proposed to be located approximately 477 feet east of the Highway 287/Old Town Road intersection. Upon entry to the site, vehicles will be able to drive completely around the north building allowing access from all sides and will be able to drive on the North side of the South building allowing access from the front. An approach will need to be requested, and approved by the Broadwater County Public Works Director.

- d. Adequate emergency medical, fire protection, and law enforcement services are available to serve buildings for rent or lease;

According to the BLR Application, there are no proposed emergency medical, fire or law enforcement services proposed to serve the buildings. However, in the event of an emergency at this location the Three Forks Ambulance Service, Three Forks Fire Department and the Broadwater County Sheriff's Office have jurisdiction.

- e. The buildings for lease or rent comply with any applicable flood plain regulations

This property is not located within a designated floodplain.

6) RECOMMENDATION

Staff recommends approval of the BLR application for the Brady Storage Units, subject to the conditions below. All conditions are based on the findings identified in this report and are recommended to ensure compliance with the BLR Regulations and other applicable laws and regulations.

CONDITIONS

1. The development and use of the property as a storage unit facility providing buildings for lease or rent shall be in substantial compliance with the plans reviewed and approved by the governing body. *(BLRR 6.C)*
2. The approval of the Brady Storage Units BLR application is based on the proposal to lease or rent the individual storage units, which shall continue to be owned by the landowner. Any change that results in the current or future landowner or designee selling the units is not approved. *(BLRR 6.C)*
3. An approach permit shall be obtained from the Broadwater County Public Works Department for access from the county road to the storage unit facility. Installation of the approach shall be completed in accordance with the approved permit and installation approved by Broadwater County. The approved approach permit shall be submitted to the Broadwater County Community Development Office upon approval. *(BLRR 6.C)*
4. These conditions of approval shall be met within two years from the date of approval *(BLRR 2)*