

BROADWATER COUNTY
Community Development Department

Office 406-266-9211 Fax 406-266-3674
515 BROADWAY
TOWNSEND, MONTANA 59644



March 27, 2024

SKS Land Co.
P.O. Box 776
Manhattan, MT 59741

Re: Dykema Boundary Relocation, January 16, 2024

Dear Mr. Dykema,

The above-referenced subdivision exemption request was examined pursuant to §76-3-201 & §76-3-207, MCA and according to the criteria that the Broadwater County Commissioners (Commissioners) utilize to determine whether proposed methods of disposition are attempts to evade the Montana Subdivision and Platting Act (MSPA). The review criteria utilized by the governing body can be found in Section IX. Divisions of Land Exempt from Subdivision Review of the Broadwater County Subdivision Regulations (BCSR). *BCSR*, Section IX (last amended Jan. 18, 2023). Pursuant to Section § 76-3-504(1)(p), MCA, local subdivision regulations, must, at a minimum, “establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter.” Mont. Code Ann. § 76-3-504(1)(p) (see also *BCSR*, IX-A).

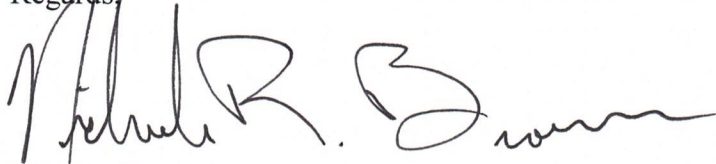
“When determining whether an exemption is claimed for the purpose of evading the MSPA, the subdivision administrator and governing body shall consider all the surrounding circumstances which may include but are not limited to: the nature of the claimant’s business

and use of the parcel, the prior history of the particular tract in question, the proposed configuration of the tract(s) if the proposed exempt transactions are completed, and any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.” *BCSR*, IX-B-2. The Commissioners are informed by the BCSR that “exempt divisions of land that would result in a pattern of development equivalent to a subdivision may be presumed to be adopted for purposes of evading the MSPA based on the surrounding circumstances listed above.” *BCSR*, IX-B-2(b). Additionally, the Commissioners utilize the review criteria found at *BCSR*, IX-C-3, including whether “the reviewing agent determines that the documentation submitted according to this section does not support the stated reason for relocation; or the proposed relocation creates a parcel of less than 160 acres which, prior to the relocation included more than 160 acres” when determining if exemption is claimed for the purpose of evading the MSPA. *BCSR*, IX-C-3.

In the case of the request for more information for the above-referenced boundary relocation subdivision exemption claim, there were multiple issues with the application and the supplemental materials that caused concern for the Commissioners that the exemption was claimed for the purpose of evading the MSPA. Namely, the Claimant’s assertion that the Darlinton Minor Subdivision tract was being reduced in acreage to make it more attractive to buyers; the change in the character of subdivision land in Darlinton Minor to agricultural covenant exempt land in Amended Tract F coupled with the relocation of boundaries so that the Claimant is not technically changing the use of agricultural exempt land; and the lack of clear language noting the easement the County has along Price Road for maintenance and access cause concern that the proposed boundary relocation may have the purpose of evading the MSPA. The multiple proposed boundary relocations and reclassifications of land could result in a pattern of development equivalent to a subdivision without local review and run contrary to the criteria for review contained in the BCSR.

Should you wish to pursue the subdivision exemption request, please note that a pre-application meeting with the subdivision administrator may be helpful and provide an opportunity to ask questions and discuss the process before proceeding with the application. Please do not hesitate to reach out with additional inquiries or questions for this office.

Regards,

A handwritten signature in black ink, appearing to read "Nichole R. Brown". The signature is fluid and cursive, with a large initial "N" and "R".

Nichole Brown
Community Development Director
Broadwater County

Cc: Kaylan Minor, Broadwater Deputy County Attorney