

BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the Pura Vida Place Subdivision, a 6-Lot Subdivision in a Residential Agriculture Zone.

Board of County Commissioners Meeting Date: January 23, 2024

Property Owners & Developers: Sheri Peck

The Board reviewed the record, which is comprised of:

1. Exhibits to the Staff Report:

- S-1: Planning & Zoning Commission Staff Report
- A-1: Application for Subdivision Plat
- A-2: Subdivision Narrative
- A-3: Plat
- A-4: Legal Description- Pura Vida Overall Boundary
- A-5: Quit Claim Deed
- A-6: USDA- Custom Soil Resource Report
- A-7: Guarantee- Flying S Title and Escrow of Idaho, Inc
- A-8: IDWR- Well Information Summary
- A-9: Reason & Decision for September 19, 2023- Board of County Commissioner Public Hearing for Zone Change from A to R/A
- A-10: Bingham County Ordinance 2023-2- Zone Change from A to R/A
- S-2: Parcel Map
- S-3: Zoning Map
- S-4: Comprehensive Plan Map
- S-5: Flood Plain Map
- S-6: Subdivision Map
- S-7: Area of Impact Map
- S-8: School District Map
- S-9: Utilities Map
- S-10: Nitrate Priority Area Map
- S-11: Irrigation Provider Map
- S-12: Aerial Image
- S-13: Notice of Posting- Addie Jo Harris
- S-14: Google Images
- S-15: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission
- S-16: Blackfoot/Snake River Government Agency Notice & Notice of Mailing- Tiffany G. Olson
- S-17: Property Owners List & Notice of Mailing- Tiffany G. Olson

2. Planning & Zoning Commission Meeting Exhibits & Minutes from November 8, 2023 and Planning & Zoning Commission sign in sheet for November 8, 2023.

Reason & Decision- Pura Vida Place
Property Owner & Developer- Sheri Peck

3. All Information and Testimony presented at the Commissions Public Hearing on November 8, 2023.
4. Planning & Zoning Commission Reason & Decision, signed by Chairman Darren Leavitt on November 29, 2023.

A. **REQUESTED ACTION:** Uphold, conditionally uphold, or overrule the decision of the Planning & Zoning Commission on the proposed subdivision. At the November 8, 2023 Planning & Zoning Commission Public Hearing, the Commission considered a request by Sheri Peck, to create a 6-Lot development to be known as “Pura Vida Place Subdivision”, on approximately 8.89 acres in an R/A Residential Agriculture Zoning District, pursuant to Bingham County Code Title 10, Chapter 14- Subdivision Regulations.

REASON

Based on the entire record and Staff Report, the Board finds:

- a. The Board found that the Application met the requirements in Bingham County Code Section 10-4-2(C) and 10-6-6(B)(1) as the purpose of “R/A” Residential/Agriculture zone is established low density single-family dwellings with lot sizes sufficient for individual sewer and water facilities. The Board found the parcels exceed the minimum lot size in the R/A zone of 1-acre each, with 6 lots at 1.42 acres each and are compatible with the surrounding area. Additionally, there is accessibility to utilities and adequate service by roadways with existing approach accesses approved by the County Public Works Division; and
- b. Testimony was presented that test holes had been dug for the inspection by the State of Idaho Department of Public Health to analyze for the anticipated septic system applications for each lot. Based upon previously received testimony from neighbors high ground water should have been found. The test hole inspections passed and no ground water was identified; and
- c. Testimony was previously presented from neighbors that water in the area was suspect to be contaminated from the former dairy operations at the project site. The Applicant’s Representative provided water samples from project site at the Applicant’s Zoning Amendment Public Hearing, which failed to show the presence of nitrates in any abnormal or excessive range. Based upon that testimony, the Applicant procured two additional water samples from residences downstream from the project site. Both samples failed to show the presence of nitrates in any abnormal or excessive range; and
- d. The Board found that the Application met the requirements in Bingham County Ordinance Section 10-6-6(B) as irrigation water rights are assessed by the Watson Canal Company, with delivery from Duncan Ditch with 3 water shares (1/2 share for each proposed lot). Water delivery is still subject to verification by the Duncan Ditch, which would be forthcoming; and

- e. The Board found that the Application met the requirements of Bingham County Code Section 10-14-4(A) because the Application was completed and included all items listed in Sections 10-14-4(A)1-23; and
- f. The Board found that the proposed Subdivision is considered to be consistent with the Bingham County Comprehensive Plan as the area is designated as Residential/Residential Agriculture which allows for the desired use.
- g. Chairman Manwaring referred to Exhibit S-, page 3 of 5, number 2, wherein it states "Section 10-14-4(A)(22) requires all stormwater to be contained on each lot. Chairman asked Director Olsen how that would be proposed to which Director Olsen stated that is set forth in Bingham County Code but is regulated by Public Works at the time of a Building Permit Application. Public Works will be sure that the swale is present to absorb any stormwater at the time of development.
- h. Commissioner Bair stated that he was worried about having three approaches so close together and across the road from the Wilson School Building where there are buses coming and going. Director Olsen stated that the bus yard is going to be to the North and East of this proposed subdivision. There is employee parking along 900 West but a majority of the time those buses are coming and going up 900 West to Highway 39 to get to the schools.
- i. Chairman Manwaring stated there was testimony in regards to taking from farm ground but he recalls within the Zone Change Public Hearing there was testimony from Alan Stander regarding the location and stated that the property was cleaned up from an existing dairy and was no longer prime farm ground.
- j. Commissioner Jackson had no concerns but added that the subject property looks good and that the buildings previously on the property were dilapidated.

DECISION

Commissioner Bair moved to uphold the decision of the Planning & Zoning Commission to approve a 6-Lot Subdivision, to be known as Pura Vida Place Subdivision, which is located North of 142 S 900 W, Blackfoot, as proposed by Sheri Peck and is subject to verification of water rights and irrigation delivery by Duncan Ditch and assessed by the Watson Canal Company. Commissioner Jackson seconded. All voted in favor. The motion carried.


Request for Reconsideration/Judicial Review: Upon denial or approval of a Zone Change, with adverse conditions, pursuant to Idaho Code Section 67-6535(2)(b), the Applicant or affected person seeking Judicial Review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

Regulatory Takings: Additionally, the Applicant may request a regulatory takings analysis as per Idaho Code Section 67-8003. An affected person aggrieved by a final decision concerning matters identified in Section 67-6521(1)(a), Idaho Code may within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek Judicial Review as provided by Chapter 52, Title 67, Idaho Code.

Dated this 5th day of February, 2024.

**Board of Bingham County Commissioners
Bingham County, Idaho**


Whitney Manwaring, Chairman


Mark Bair, Commissioner


Eric Jackson, Commissioner