

## BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the 1<sup>st</sup> Amended Estella Rose Estates Subdivision, consisting of 4 lots in a Residential/Agriculture Zoning District.

Board of County Commissioners Meeting Date: September 11, 2024

Property Owners & Developers: Terry & Penny Fowler

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: Survey Narrative
  - A-3: Plat
  - A-4: Quit Claim Deed
  - A-5: Legal Description
  - A-6: Custom Soil Resource- United States Department of Agriculture
  - A-7: Guarantee- Flying S Title and Escrow of Idaho, Inc
  - A-8: IDWR- Well Information Summary
  - A-9: Fairview Lateral Ditch Water Share Certificate
  - A-10: Application for Variance
  - A-11: Application for Variance Attachment
  - A-12: Application for Variance Attachment nh
  - S-2: Parcel Map
  - S-3: Zoning Map
  - S-4: Area of Impact Map
  - S-5: Utilities Map
  - S-6: Irrigation Provider Map
  - S-7: Aerial Image
  - S-8: Notice of Posting- Addie Jo Harris
  - S-9: Google Images
  - S-10: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission
  - S-11: Blackfoot/Snake River Government Agency Notice & Notice of Mailing- Ashley Taylor
  - S-12: Property Owners List & Notice of Mailing- Ashley Taylor
2. Planning & Zoning Commission Meeting Exhibits & Minutes from July 10, 2024 and Planning & Zoning Commission sign in sheet for July 10, 2024.
3. All Information and Testimony presented at the Commissions Public Hearing on July 10, 2024.
4. Planning & Zoning Commission Reason & Decision, signed by Chairman William Aullman on July 25, 2023.

A. **REQUESTED ACTION:** Uphold, conditionally uphold, or overrule the decision of the Planning & Zoning Commission on the proposed subdivision. At the July 10, 2024 Planning & Zoning Commission Public Hearing Property Owners and Developers, Terry and Penny Fowler, proposed to amend Lot 1 Block 1 of the Estella Rose Estates Subdivision Plat (recorded on August 13, 2014) to create a four (4) lot subdivision consisting of the Fowler's existing residential lot, two (2) new lots of approximately 1-acre each, and one (1) small non-buildable utility lot, approximately 25' x 25', encompassing an existing 98-foot tall wireless communication tower which the Planning & Zoning Commission approved on March 13, 2024. The Application was also accompanied by a Variance request to deviate from the required twenty (20) feet from an easement to an existing accessory structure to allow for a new private road extending access to all lots.

Based on the record presented and received at the Planning & Zoning Commission Public Hearing, the Commission approved the Variance Application and recommended approval of the proposed 1<sup>st</sup> Amended Estella Rose Estates Subdivision with the following condition:

- 1) That a fence be placed on Lot 4 which encompasses a 98' tall monopole wireless communication facility with an 8-foot tall chain link security fence as set forth in Bingham County Code Section 10-7-35(B)(3).

### **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) as the purpose of "R/A" zone is to permit the establishment of low-density single-family dwellings with lot sizes sufficient for individual sewer and water facilities. The Application contains lot sizes compatible with the surrounding area and will be accessed from 150 W. Rose Road with the development of a shared driveway to a private road, built to the applicable Fire Code construction standards, to provide legal access to four (4) lots as required by Bingham County Code Section 10-6-8; and
- b. The Board found that the Application still met the requirements of Bingham County Ordinance Section 10-14-4(A) because the Application was completed and included all items listed in 10-14-4(A) 1-23; and
- c. The Board found that the Application still met the requirements of Bingham County Code 10-6-6(B)(1) and 10-14-4(B) because proposed lots meet the one-acre minimum for the Residential/Agriculture Zoning District. Further, the subdivision supports the installation of individual wells and septic systems, with irrigation water delivered by the Fairview Lateral in a new pressurized system utilizing 5 shares of water; and

- d. The Board found that the Variance Application met requirements of Bingham County Code Section 10-10-5 as the Application was complete; and
- e. The Board found that the Applicant provided in their narrative that in order to facilitate the subdivision development, there is only one location for the placement of a private road; and
- f. The existing accessory structure fails to meet the required setback by measuring approximately 11.9 feet from the structure to the edge of the private road. The Board agreed with the Commission and that the structure's location does not create a harm to the public as the traffic will be limited and the approach is existing. The Applicant informed the Commission that the property is such that a new approach would not be approved to the Functional Classification of 150 W. Rose Road; and
- g. The Board found that the Application is consistent with the Bingham County Comprehensive Plan which supports residential development in areas adjacent to or surrounding proposed applications where sanitary sewer connection to a district or municipal system can be attained. Further, The Comprehensive Plan Map area designation of Residential Agriculture supports single-family residential development in the Residential/Agriculture Zoning District; and
- h. Commissioner Bair had no concerns; and
- i. Commissioner Jackson had no concerns; and
- j. Chairman Manwaring has no concerns.

### DECISION

Commissioner Bair moved to uphold the decision of the Planning & Zoning Recommendation to approve the 1<sup>st</sup> Amended Estella Estates Subdivision consisting of three (3) residential lots, and one (1) small non-buildable utility lot, located at 134B N 150 W, Blackfoot, Idaho on approximately 3.79 acres in a Residential/Agriculture zoning designation as proposed by Terry and Penny Fowler, as presented which includes approval of the Applicants request for a variance to the setback requirements between a structure and an access easement/private road pursuant to Bingham County Code Section 10-6-3 on Lot 1 at 11.9 feet. Commissioner Jackson seconded.

Commissioner Bair amended the motion to add that the Board will uphold the recommended conditions, which were as follows:

1. That a fence be placed on Lot 4 which encompasses a 98' tall monopole wireless communication facility with an 8-foot tall chain link security fence as set forth in Bingham County Code Section 10-7-35(B)(3).

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 20 day of September, 2024.

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

  
Whitney Manwaring, Chairman

  
Mark Bair, Commissioner

  
Eric Jackson, Commissioner