

# City of Clark Fork

## Minutes of the 6/6/2022 Special Meeting for Public Hearing Clark Fork City Council Meeting

Mayor Russell Schenck called the June 6, 2022 Public Hearing of the City Council to order at 6:00 p.m. in the Clark Fork City Hall, 110 East Third Avenue.

Mayor Schenck led the Pledge of Allegiance.

**Roll Call of Council Members:** Council Members Shari Jones, Sharon Banning, Stanley Spanski and Jay White were present constituting a quorum.

**ADDITIONS to the AGENDA:** No.

### Agenda:

#### A. Public Hearing to discuss Scotchman's Peak Subdivision, ACTION ITEM.

Jeremy Grimm from Whiskey Rock Planning presented the Preliminary Plat for Kelly Kearns on the Scotchman's Peak Subdivision. Zoned Residential. Proposed access off rear of Elk Meadows subdivision on Antelope Loop a 44-foot Right-of-Way. There are a number of adjacent easements running through the subdivision. Water service is going to be from the City of Clark Fork. The sewer system is on-site septic. Panhandle Health came out and did a site evaluation. Powerline encumbers Lot 6. There is a stipulation of no structures 25 feet from centerline. For road standards the cul-de-sac would be 120-foot-wide, and a 40-foot-wide road easement that includes Antelope Loop with a 20-foot-wide hard asphalt with two-foot shoulders on either side. Proposing that the 40-foot-wide road easement be private. One of the neighbors had a concern about Kelly Kearns's recording of 1006504, which was a recission of easement 953126. Lots meet minimum setback requirements.

The City Planner, Clare Marley, with Reuen-Yeager, spoke on behalf of the Council on the findings and conclusions for the review of the application. These findings are based on requirements, such as structure and road width, ordinances used, and what the standards are. Included in the list are State agencies including the Department of Environmental Quality Compliance and Environmental Health. Issues addressed were flooding, proper drainage, objectionable earth and health and safety. Easements by law have to be shown on the Plat. Drain fields, powerline and wetlands or flood plain to be shown on Plat. Last part is conclusions to the draft motion. The choices are either to approve it, deny it, or approve it with conditions. Council may choose to mitigate the issues as conditions for approval. Council may have a decision to continue the discussion at the next meeting which would need to be date and time specific. Five main conditions of approval, 1- Preliminary Plat, 2- 12 months to bring the Final Plat forward, 3- Dedications shown on Plat, 4- Presented as a plan before any construction starts, 5- Plans have to be approved before the Final Plat can be approved by the Council.

Mayor Schenck read the written comments that were submitted – 23 Pro, 0 Neutral, 6 Con.

There were three Pro, zero Neutral and three Con verbal comments from the public.

The first Pro speaker was Clay Hemstalk. He stated that he and his wife live in the Elk Meadows Planned Unit Development. In his opinion Block 1 does not speak for Block 2 and he supports the subdivision.

The second Pro speaker was Kevin Morse. He is a city resident and feels that the construction of the subdivision is an improvement over existing structures and will bring additional value.

The third Pro speaker was Kathy Street. She stated that as we can see a battle is going on and it breaks her heart. That we live in the most beautiful place in the world. That there is a lot of the confusion, as said by the Land Surveyor, because it is very complicated. She's been involved in real estate, escrow for over 20 years and she had a tough time looking over it and that she bought her house, not from Mr. Kearns, but as a re-sale, and he left a bottle of wine and a note saying you will find a lot of bad comments about Mr. Kearns, but if you get to know him you will find out he's a really nice guy. She stated that the letter explained that the legal documents are very convoluted, such as Elkhorn Drive, but that isn't what we are talking about, the asphalt is on a different road, and that it's a mess. She further stated that this man built the nicest homes in town and that if you don't like him that's fine.

The first Con speaker was Doug Porter. He read a letter aloud from his attorney questioning the validity of the easements and stated that if the Council ratifies the replat that the City of Clark Fork validates the listed easements. He had copies of his lawyer's letter with him and shared them with the Council. He stated that the residents own the road and that he has to get everyone to agree on the use of the road for access back there.

The second Con speaker was Mary Miller. She had concerns about available parking, easements, and building sizes. She bought My Place from him. She had the property surveyed and about a year later Mr. Kearns put an easement through her property. He doesn't care about her business. He keeps blocking her entrances and drags his equipment through their entrances. She asked why would they give 40 feet of their parking area to Mr. Kearns? He never contacted them about it. She said that you can't build on an existing drain field, let alone a septic pipe. She complained of continued harassment by Mr. Kearns for almost two years. DOT put signs up and yet he still drives in.

The third Con speaker was Jane Conkel. She had concerns about easements. She has a home on Lot 2 and her and her husband are part of the HOA. Clay is the President; Kathy is the Treasurer and Jane is the Secretary. They made a letter regarding the granting the easement for the subdivision, however, it was never discussed in an HOA meeting.

Jeremy Grimm wanted to respond on the record. There were comments that the proposed Plat would be built on septic systems and that they wouldn't let it happen and that they would bring the Sheriff out. And in regard to Elkhorn Drive, he will provide the Preliminary Plat and Mr. Kearns's attorney's opinion. They are totally open to providing more details of the Plat to satisfy the questions.

The Public Hearing was closed at 7:26 p.m.

The Council discussed the concerns with the application for the Scotchman's Peak Subdivision. The City Planner, Clare Marley, stated that prior to final Plat approval, the applicant shall provide legal proof from a title company for easement to the subject property as shown on the Preliminary Plat to the satisfaction of the City of Clark Fork. Mayor Schenck wanted to make sure they had legal ingress and egress to the subdivision. Additionally, Mayor Schenck mentioned that the septic transmission line is still showing up on the map and asked if we need to worry about the easement showing up there. According to the County that affluent line is technically there and they can't be driving over it and wanted to request that the easement to be removed if it is not actually there. They are also asking for permission to take a 60-foot-wide easement down to a 40-foot-wide standard, but the ordinance says that the standard for private or public is 60-feet. Mayor Schenck mentioned that they would have to make an

exception to that if that is something the City Council would consider. Council Member Spanski asked if a 40-foot-wide easement was wide enough for the fire trucks to turn around. According to Mayor Schenck per the National Fire Code, 20-foot is minimum unless they've changed the code and said that we have a resident Fire Chief in Clark Fork who we can ask that question. Council Member White stated that the only stipulation that concerned him was that their local fire equipment can turn around. Mayor Schenck mentioned that the cul-de-sac was of minimum size. Off-street parking is required for the subdivision. Council Member White stated that they need access to the property. Mayor Schenck mentioned that when the Final Plat comes out all of the Councils' concerns will need to be addressed and all stipulations will have to be met in order to approve it. Clare Marley summarized the issues that needed to be addressed, which included prior to Final Plat they have to prove they have legal documents for easements on Plat, pay all their fees for processing subdivision, and fire access to be built per DOT standards. Mayor Schenck stated that the motion to approve was based on the following reasons: applicant provided everything needed for the Council to make a sound decision to approve the preliminary Plat, based on testimony by applicant, comments read by Planner, and rebuttal by Council and staff.

Council Member Spanski moved to approve the Preliminary Plat of Scotchman's Peak Estates Subdivision Application as presented with the following conditions; approve the waiver to the required street standards of Section 9 Ordinance 223 to allow private 40-foot-wide access easement finding that the requests are in accordance with the general specific standards of the City of Clark Fork based on the evidence of record and testimony received. He further moved to adopt the findings and conditions of approval as read by the Planner. The motion to approve is based on the following reasons stated; based on testimony by applicant, comments and rebuttal by Council and staff, and to obtain approval and to complete conditions of approval as adopted. Council Member Banning seconded the motion.

Roll Call Vote of Council Members:

Shari Jones – Y

Sharon Banning – Y

Stanley Spanski – Y

Jay White – Y

Motion carried.

Council will submit their Written Decision at the next Regular Council Meeting on June 13,2022.

Council went in to Executive Session at 8:10 p.m. under Idaho Code 74-206 (b) for discussion of Personnel matters.

Council returned from Executive Session at 8:46 p.m.

Adjournment: Council Member Jones moved to adjourn. Council Member White seconded the motion. Motion carried. The meeting adjourned at 8:46 p.m.

Respectfully submitted,

---

Amber Burgess, City Clerk/Treasurer

---

Russell W. Schenck, Mayor