

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 14, SERIES 2023**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIMNATH TO
DENY THE FLOCKHART HARMONY SUBDIVISION, GENERALLY LOCATED
NORTH OF ADJACENT TO HARMONY ROAD, AND WEST OF AND ADJACENT TO
MAIN STREET**

WHEREAS, the Town Council of the Town of Timnath (“Town”) pursuant to C.R.S. § 31-15-103, has the power to pass resolutions; and

WHEREAS, Robert Flockhart (the “Developer”) has submitted a Minor Subdivision Plat for the Flockhart Harmony Subdivision, more particularly described in **Exhibit A** (legal description) and **Exhibit B** (Minor Subdivision Plat) and attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, a properly noticed public hearing was held on January 17, 2023, and the above described Minor Subdivision was recommended for denial to the Town Council by the Town of Timnath Planning Commission by unanimous vote (5-0); and

WHEREAS, a properly noticed public hearing with the Town Council was held on March 14, 2023 and upon hearing the statements of staff, the applicant(s) and giving consideration to the recommendations, the Town Council determines as provided below.

**BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH,
COLORADO:**

Section 1. Approval

OPTION 1: The Minor Subdivision is hereby denied by the Timnath Town Council based on the application not meeting Land Use Code Minor Subdivision review criteria 2.9.10.11.A.2.1, 2.9.10.11.A.2.2, 2.9.10.11.A.4 as detailed in the staff report which is part of the written record.

OPTION 2: The Minor Subdivision is hereby denied by the Timnath Town Council based on the following findings:

REQUIRED FINDINGS FOR APPROVAL

Under Land Use Code Section 2.9.5 the Town Council must limit its review to whether the project should be approved or denied in accordance with the provisions of Land Use Code section 2.9.10.11.A.2 and any applicable design guidelines. The Council makes the following findings:

- 1. 2.9.10.11.A.2.1. The development will substantially comply with this Code and the Comprehensive Plan.***

This development substantially complies with the 2020 Comprehensive Plan. The property is designated as Commercial Mixed Use (CMU) on the comprehensive plan and this proposal is for a commercial development complies with the intent set forth in this document. The property is zoned Community Commercial (C- 2) and is generally in conformance with the Land Use Code. The areas where this development does not conform with the code is in relation to the transportation design. Those discrepancies are listed below in review section 2 & 4.

2. The utility and transportation design is adequate, given existing and planned capacities of those systems.

The transportation design is not adequate for the existing and planned capacities of adjacent streets. This submittal does not meet the Town's technical standards for transportation access identified in the Town's Design Standards and LCUASS. Staff has repeatedly and consistently informed the applicant that the design does not meet the Town's criteria as follows:

The submittals continue to focus on just three commercial lots which are part of a much larger development parcel. There is no Master Plan for this property, so staff has continued to request clarification on the ultimate commercial uses for the purpose of evaluating the ultimate traffic volume and access for this property as required by the LCUASS. Initially the Traffic Impact Study was revised to add substantial traffic increase for full property buildout, but due to the problems arising from the resulting increase in volume of traffic, the study was reduced back down to only the initial three lots while adding, upon staff's request, a note on Figure 1 of the report that Lot 4 (remainder of the property) will have "No Future Development". However, Lot 4's future intended use is specified on the Final Plat as "No Immediate Development Plans". The code requires the landowner to either commit to no future development of Lot 4 or include the anticipated future traffic volumes from Lot 4 in the current Traffic Impact Study so the access points to the property can be designed with the future traffic volumes in mind. It has done neither.

1. The project access from Main Street and future Timnath Parkway is depicted as a Right In / Right Out. Town criteria for access to a Major Arterial is 660' between intersections. The distance proposed for this development is approximately 300'. Staff has agreed to consider a waiver, assuming the applicant requests a waiver pursuant to LUC 2.9.15 and can provide a written engineering analysis that accessing the future 4-lane Timnath Parkway with a Right In / Right Out, a mere 300' from the Harmony Road intersection, will be a safe movement. To date neither a waiver application nor any written analysis has been provided.
2. The access from Harmony Road
 - a. Per the 2014 court stipulated settlement agreement between the property owner and the Town, the owner and the Town agreed that "the access to plaintiff's property remains as it is now in place and the Town will permit a right turn lane into and right turn out of the property". Applicant continues to submit plans for, and insist upon, a 3/4 turn movement from

Harmony Road. Staff does not support a 3/4 turn movement at this location.

b. Staff continues to request justification from the applicant regarding its position that the noncompliant design for the left turn lane will be safe and functional. The reply from the applicant is to "refer to the Traffic Impact Study for design safety and criteria to provided comment". However, no such discussion is provided in the Study.

c. If the 3/4 turn movement is allowed (which is not supported by staff), it is non-complaint with LCUASS for the following reasons:

i. Does not meet spacing requirements from Main Street for a driveway/intersection.

ii. Is not designed to prevent south bound vehicles from turning left.

iii. Does not meet storage requirements if entire property is developed (#1 comment above).

iv. Does not have a transition taper into the turn lane, or deceleration area outside of thru traffic.

v. Is not fully shadowed (arterial left turn lane design requires thru traffic to be fully shifted before moving into the left turn lane.

vi. Does not have the required transition taper of 720' to shift thru traffic around the turn lane. Applicant provided 180', which would be appropriate for a 25 MPH road.

d. Applicant has indicated the access would need to be signalized in the future. Staff has made it clear to the applicant that the location of the access on Harmony Road does not meet the spacing requirements for a traffic signal in that it would only be 600' west of the Main Street traffic signal. However, the Transportation Impact Study provided by the applicant continues to assume a traffic signal at this location to achieve an acceptable level of service.

4. All applicable technical standards have been met.

All technical standards for the plat have been met within the Land Use Code. The technical standards for LCUASS, which are incorporated into the Land Use Code by section 6.5.1, that have not been met for transportation design are:

1. LCUASS Chapter 1, Section 1.9.4.A - Variances
2. LCUASS Chapter 4, Section 9.4.4.F – Trip distribution must be documented in the TIS
3. LCUASS Chapter 7, Table 7-4 – Street Design and Technical Criteria (includes access/driveway spacing from intersections)
4. LCUASS Chapter 8, Section 8.2.1 – Location of Intersections
5. LCUASS Chapter 9, Section 9.2.3 – Access to 4-Lane or 6-Lane arterial. Subsections not met are Access Approval, Conditions for Private Access, Public Direct Access Requirements, and Spacing and Signalization Criteria.

6. If a $\frac{3}{4}$ turn off of Harmony was granted (not recommended by criteria or staff), then the following criteria are not met:
 - a. LCUASS Chapter 8 , Section 8.2.5.c - Exclusive Left Turn Lanes Design Criteria
 - b. LCUASS Chapter 8, Figure 8-2 - Design of Left Turn Lanes
 - c. LCUASS Chapter 8, Figure 8-3 - Design Tapers for Left Turn Lanes (redirect taper)
 - d. LCUASS Chapter 8, Figure 8-11 - Turn Lane Design Criteria (Shadow requirement)
 - e. LCUASS Chapter 8, Section 8.2.1.5.b - Specific Channelization Requirements

Based on the evidence as presented above, the proposed development does not meet transportation design criteria and would pose a health, safety, and welfare risk to the Town.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON MARCH 14, 2023

TOWN OF TIMNATH, COLORADO

DocuSigned by:

Mark Soukup

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Mark J. Soukup, Mayor

ATTEST:

DocuSigned by:

Milissa Peters-Garcia

07A6AF3802114D7...

Milissa Garcia-Peters, CMC
Town Clerk

EXHIBIT A

Legal Description of Property Proposed for Minor Subdivision

THE UNDERSIGNED, BEING THE OWNER(S) OF THE FOLLOWING DESCRIBED PROPERTY:

THAT PORTION OF THE SOUTHEAST 1/4 OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE TOWN OF TIMNATH, COUNTY OF LARIMER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

PARCEL ONE:

COMMENCING 40 FEET EAST OF THE SOUTHWEST CORNER OF BLOCK 12, TOWN OF TIMNATH, THENCE WEST TO THE CENTER OF A RIVER, THENCE SOUTHERLY ALONG THE CENTER OF A RIVER TO THE SOUTH LINE OF SECTION 34, THENCE EAST 1075 FEET TO THE SOUTHEAST CORNER OF SECTION, THENCE NORTH TO BEGINNING; EXCEPT ABOUT 2 1/2 ACRES TO LEWIS PARKER AS IN BOOK 235 AT PAGE 127 AND EXCEPT BLOCKS 13 AND 17, TOWN OF TIMNATH, AND EXCEPT BLOCKS 14 AND 15, MILLER'S PLAT OF TIMNATH, LESS ROAD AND DITCHES IN SECTION 34, TOWNSHIP 7 NORTH, RANGE 68 WEST, COUNTY OF LARIMER, STATE OF COLORADO; EXCEPT A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH P.M., LARIMER COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF BLOCK 17 IN WHAT WAS FORMERLY THE TOWN OF TIMNATH, AS BEARING SOUTH 11°32'55" EAST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 17; THENCE ALONG THE SAID WEST LINE BLOCK 17, SOUTH 11°32'55" WEST 199.03 FEET; THENCE SOUTH 89°59'46" WEST 252.60 FEET; THENCE NORTH 05°13'45" EAST 195.82 FEET; THENCE NORTH 89°59'46" EAST 194.91 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL TWO:

THAT PORTION OF BLOCK 15, INCLUDING ALL LOTS NUMBERED AND UNNUMBERED "A" MILLER'S PLAT OF THE TOWN OF TIMNATH, COUNTY OF LARIMER, STATE OF COLORADO.

PARCEL THREE:

PART OF BLOCK 15 KNOWN AS UNNUMBERED "B" MILLER'S PLAT, OF THE TOWN OF TIMNATH, COUNTY OF LARIMER, STATE OF COLORADO.

CONTAINING 702,630 SQUARE FEET OR 16.130 ACRES, MORE OR LESS.

EXHIBIT B

Minor Subdivision

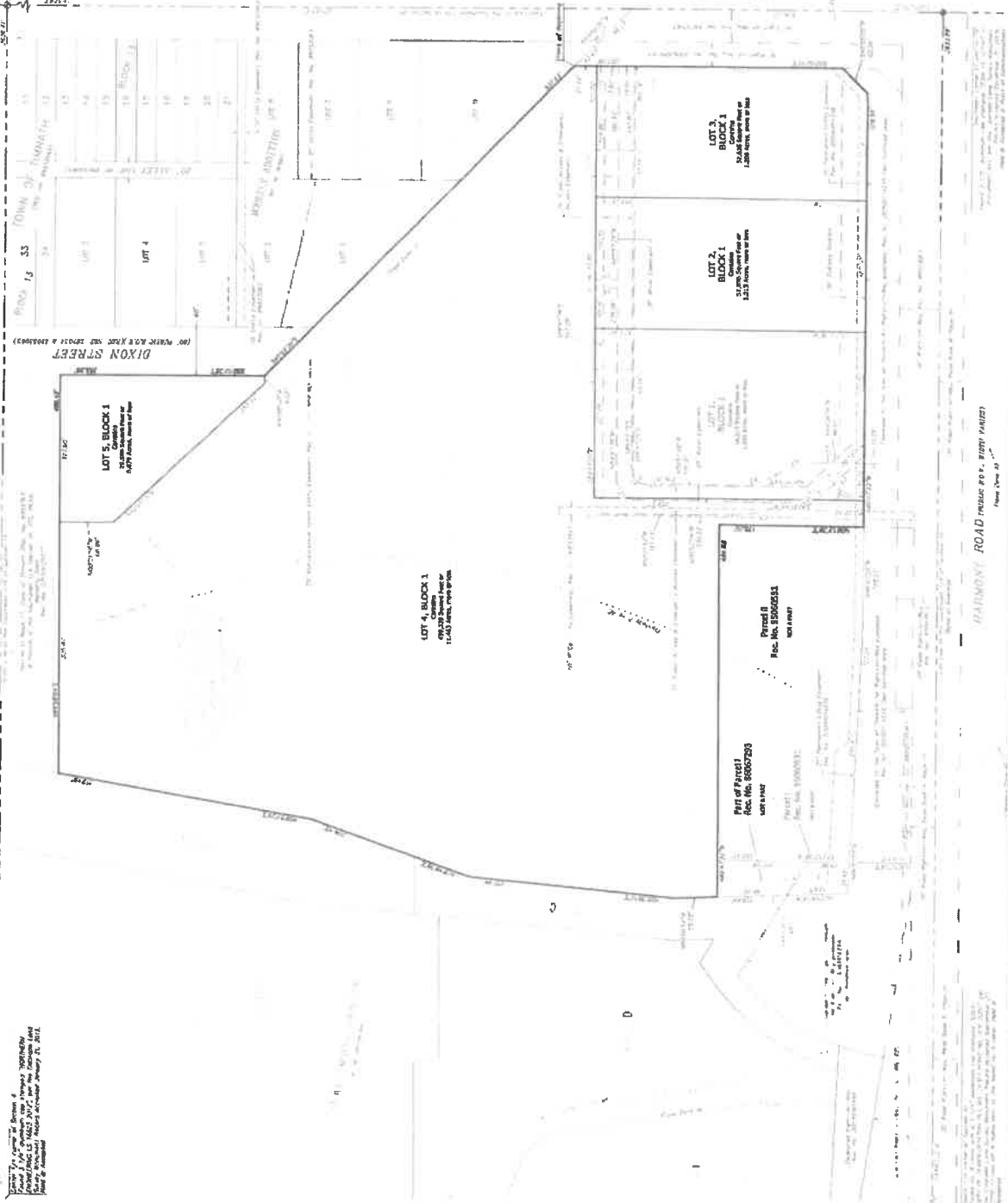
[attached]

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FLOCKHART HARMONY SUBDIVISION FILING NO. 1

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF TIMMATH, COUNTY OF LARIMER, STATE OF COLORADO

Part of Parcel 1
Rec. No. 80002903
Subdivision
Part of Parcel 1
Rec. No. 15020333
Subdivision
Part of Parcel 1
Rec. No. 15020333
Subdivision



MISCELLANEOUS NOTES
1. THIS PLAT IS SUBJECT TO THE EASEMENTS AND RESTRICTIONS SHOWN HEREON.
2. THE AREA SHOWN AS 'RESERVED' IS RESERVED FOR THE USE OF THE STATE OF COLORADO.
3. THE AREA SHOWN AS 'RESERVED' IS RESERVED FOR THE USE OF THE STATE OF COLORADO.

LINE LEGEND
--- UNDEVELOPED LAND
--- EXISTING HIGHWAY RIGHT-OF-WAY
--- EXISTING UTILITY RIGHT-OF-WAY
--- EXISTING EASEMENT
--- EXISTING CURB LINE
--- EXISTING SIDEWALK
--- EXISTING DRIVE
--- EXISTING FENCE LINE
--- EXISTING LOT CORNER
--- EXISTING SURVEY LINE

MONUMENT NOTES
1. MONUMENTS ARE SHOWN AT THE CORNERS OF THE LOTS AND BLOCKS.
2. MONUMENTS ARE SHOWN AT THE CORNERS OF THE LOTS AND BLOCKS.

ABBREVIATION LEGEND
--- UNDEVELOPED LAND
--- EXISTING HIGHWAY RIGHT-OF-WAY
--- EXISTING UTILITY RIGHT-OF-WAY
--- EXISTING EASEMENT
--- EXISTING CURB LINE
--- EXISTING SIDEWALK
--- EXISTING DRIVE
--- EXISTING FENCE LINE
--- EXISTING SURVEY LINE



GRAPHIC SCALE
0 50 100
FEET
Scale: 1" = 60'

FINAL PLAT AND NEW EASEMENTS/SETBACK DETAIL

DATE	BY	DESCRIPTION
11/15/2023	AL	17% CORRECTIVE REVISION
11/15/2023	AL	20% CORRECTIVE REVISION
11/15/2023	AL	25% CORRECTIVE REVISION
11/15/2023	AL	30% CORRECTIVE REVISION
11/15/2023	AL	35% CORRECTIVE REVISION
11/15/2023	AL	40% CORRECTIVE REVISION
11/15/2023	AL	45% CORRECTIVE REVISION
11/15/2023	AL	50% CORRECTIVE REVISION
11/15/2023	AL	55% CORRECTIVE REVISION
11/15/2023	AL	60% CORRECTIVE REVISION
11/15/2023	AL	65% CORRECTIVE REVISION
11/15/2023	AL	70% CORRECTIVE REVISION
11/15/2023	AL	75% CORRECTIVE REVISION
11/15/2023	AL	80% CORRECTIVE REVISION
11/15/2023	AL	85% CORRECTIVE REVISION
11/15/2023	AL	90% CORRECTIVE REVISION
11/15/2023	AL	95% CORRECTIVE REVISION
11/15/2023	AL	100% CORRECTIVE REVISION

ALTIMA

JOB NO. 20690

SHEET 3 OF 3