

Agenda

Board of Adjustment

7 p.m. August 14, 2019

Town Annex Board Meeting Room, 105 E. Corbin St.

1. Call to order and confirmation of quorum

2. Agenda changes and approval

3. Minutes review and approval

Minutes from regular meeting on July 10, 2019

4. Quasi-judicial public hearings

None

5. Other business

- a. Review of Final Decision Order relative to Case #BA-05-2019 (VIMA, LLC Conditional Use Permit) decided at the July 10, 2019 meeting

6. Committee and staff reports

7. Adjournment



TOWN OF HILLSBOROUGH

Minutes

Board of Adjustment

7 p.m. July 10, 2019

Town Hall Annex Board Meeting Room, 105 E. Corbin St.

Present: Chair Randy Herman, Bill Harris, Vice Chair David Remington, Jenn Sykes and Dustin Williams
Staff: Senior Planner Tom King
Guests: Patrick Cummings, Laura Eastwood, Megan Kimball, Sean Kehoe, Jim Mathewson, Jay Lowe, Terry Poteat, Dorothy Potter Snyder, Cole "David" Wagner and David Wagner

1. Call to order and confirmation of quorum

Chair Randy Herman called the meeting to order at 7 p.m. and confirmed a quorum with five members present. Herman asked whether anyone had any ex parte communications to divulge. No one did. Herman then asked whether anyone had any conflicts of interests with Item 4B. No one did.

2. Agenda changes and approval

There were no changes. Senior Planner Tom King asked whether three people who had applied to be on the board (Laura Eastwood, Sean Kehoe and Megan Kimball) were present in the audience because applicants are required to attend a meeting before being chosen to serve on the board. Those three people confirmed they were present.

3. Minutes review and approval

Approved minutes from the regular meeting on June 12, 2019, to be considered for approval

Motion: Member Bill Harris moved approval of the June 12, 2019, minutes as submitted. Vice Chair Dave Remington seconded.
Vote: Unanimous

4. Public hearings

A. Case #BA-04-2019: Conditional Use Permit modification (continued from June 12, 2019)
Senior Planner Tom King said the applicant, Summit Design and Engineering Services, had withdrawn the application for 320, 340 and 360 Executive Court (Orange County PIN 9874-80-2287).

Motion: Remington moved to accept the withdrawal of the Conditional Use Permit modification request. Harris seconded.
Vote: Unanimous

B. Case #BA-05-2019: Conditional Use Permit for VIMA, LLC.
Herman opened the public hearing. He asked that anyone who wished to testify come forward to be sworn in.

Herman explained that this is a quasi-judicial public hearing and that the decision would be based on sworn testimony.

King and those who wished to speak were sworn in.

King introduced the staff report into the record and summarized the report. He noted that the applicant is VIMA, LLC and that the location of the land is 119 and 121 N. Nash St. (Orange County PIN 9864-66-5555).

He reviewed that the applicant is requesting subdivision of a 4.09-acre tract into three lots under the conditional subdivision procedure of the UDO (Unified Development Ordinance).

King explained that typically a project such as this would be reviewed and approved at the staff level under the minor subdivision procedure; however, that procedure can only be used once in a five-year period for a piece of property, and the applicant has already used it on this property. So, the applicant chose to apply for a Conditional Use Permit rather than wait five years to use the minor subdivision procedure a second time.

Jim Mathewson of VIMA, LLC, who had been sworn in, addressed the board. Mathewson said he planned to divide the lots so that the two existing single-family homes could exist separately, each on its own lot. Then, in about five years, he would build one or two more single-family homes on the remaining acreage. He said his intention is to keep the project as simple as possible with minimal density. He said a private driveway serving the two existing homes has been there for as long as the current houses have been there.

King reviewed that the recreation area required by recreation requirements of the UDO would have to be accessible to everyone in the subdivision. It can be for active or passive recreation.

Herman asked whether the recreation requirements would be triggered if Mathewson waited five years to subdivide again under the minor subdivision procedure. King answered no; the recreation requirements do not apply for minor subdivisions.

Member Jenn Sykes wondered how residents of lots 2-4 would access a recreation area in a corner of Lot 1. There was board discussion that there could be a pedestrian easement from the driveway of Lot 1. King explained that a pedestrian easement is not required to meet recreation requirements.

Herman suggested the board discuss the Conditional Use Permit standards before discussing the waivers.

Herman asked King for verbal confirmation of staff's standards of evaluations analysis found in the staff report. King affirmed that he stands by what was written in the staff report regarding the analysis.

Herman said the fourth requirement is confusing because it stipulates that all development standards can be met, but elsewhere in the UDO the Board of Adjustment is also allowed to waive the development requirements. King said that is correct. King said there has been discussion at the staff level about waivers recently. He said before the adoption of the UDO in 2011, there was a zoning ordinance and a subdivision ordinance; projects used to have to meet all the requirements or an applicant could ask for a variance if a variance could be justified. To give some flexibility to staff, the Board of Adjustment and the Board of Commissioners, the Planning Department wrote the regulations such that each permit-issuing authority could issue waivers from the development standards. King said staff and the Planning Board have been discussing how to reduce waivers because so many waivers are requested.

Herman asked Mathewson whether the waivers he is requesting provide something better than what is required by ordinance. Mathewson said he would be glad to increase the open space and provide a payment in lieu for the sidewalk because of the difficult topography in that area. There was brief discussion about the lack of sidewalks on West King Street. Several board members said someone needs to be the first to install a sidewalk on the section that does not have any sidewalk. There was discussion that the payment in lieu requirement is 80% of an engineer's estimated cost for building the sidewalk, which King said is currently about \$30-\$35 a square yard and doesn't take into account the topography. King said the estimate for this section of sidewalk was around \$6,500. King had derived

this figure based on a recent phone conversation with a local engineering firm who gave him the estimate as to cost per square yard of sidewalk. He acknowledged it could cost more with the topographical challenges.

Herman noted that the applicant had expressed willingness to create twice as much recreation space as required. Herman asked if it could be a condition of a future minor subdivision of Lot 1. King said the board could make it a condition but gave the caveat that a condition on a future minor subdivision project could be forgotten or overlooked.

There was some discussion on the difference between open space and recreation space. King explained the recreation space could be something passive like a gazebo where someone could read. He said open space would need to be at least 0.5 acres for this subdivision and that open space is a separate requirement from recreation space.

Remington said the trade-off could be to extend the recreation space beyond the minimum and not require the open space. Herman said that could be appropriate.

Herman invited anyone else in the audience who wished to speak on this item to speak.

David Wagner, who was previously sworn in, addressed the board. He said half of the private drive is on his property. He would like the portion on his property to be closed as a shared road. King shared a map with the board. King said there is both a survey gap and overlap in the area in question. The survey shows some encroachment of the driveway onto Wagner's property.

Wagner said he would not object if it was just one house accessing the private drive, but he does not want more houses to share it as Mathewson subdivides.

King said this would be a private road. The properties on Latimer Street previously subdivided from the parent parcel as part of the previous minor subdivision would not have access to the private road. To serve two lots, Mathewson is not required to make improvements to or build the road. If Mathewson wanted a third lot to access this private road, then the road would need to be improved to meet town private road standards. Herman asked if the review process of meeting town standards would include proof of ownership. King said no, survey gaps and overlaps are a private matter that would need to be resolved by the individual owners.

When asked, King explained the survey gap is a sliver of a triangle that is for all intents and purposes an area of "no one's land." Also, there is another place along the property line where the lines are overlapping. King said the surveys from 1998 and 2009 do not totally agree. King said the applicant's surveyor, Jay Lowe, is present if the board has any technical questions he could answer. King said generally these situations arise when one person's deed or survey plat differs from someone else's. King said property owners can come to agreement and have a surveyor draw the lines in the agreed way; sometimes property owners go to court to settle this matter. The 2009 survey indicates that the gravel drive encroaches a little onto Wagner's property.

Mathewson said he has no intention of adding more houses to the driveway.

Wagner said if Mathewson would build a retaining wall on a steep bank on Wagner's property where he is concerned about erosion, then he would not dispute Mathewson's driveway. Mathewson said that area needs a French drain and that he would be inclined to install the drain.

Wagner said he wants a retaining wall. Mathewson said he does not like retaining walls and would prefer to address the erosion with a French drain.

Herman asked Wagner how he would like to address Mathewson's private road on his property. Wagner answered ideally something would have been worked out before coming before the board. Wagner said he felt it was wrong that Mathewson did not speak with him before the meeting.

Member Dustin Williams said the only way to take the private road into consideration could possibly be under public safety.

King said this road encroachment issue does not affect the decisions before the Board of Adjustment.

Remington said if the private road encroaches on someone's lot, then he wonders if there at least needs to be a condition requiring that access issues be agreed upon.

Remington said the board could stipulate that it cannot be subdivided until the applicant agrees with the neighbor on how the issue could be solved. Herman said another solution is a condition that this private road can only be accessed by the two houses that already share it. Herman said his understanding is that the board cannot require the road to be improved if it only serves two houses. King confirmed this could be a condition. King said that before the hearing, Wagner brought up sight limitations with the driveway and King confirmed there are sight problems.

When asked, Mathewson said one house has two bedrooms and one has three bedrooms. Sykes said if the houses are rented out, they might have more cars associated with them than with a typical single-family home.

Herman asked whether anyone else wished to speak.

Dorothy Potter Snyder, previously sworn in, addressed the board. She stated that she lives at 110 N. Nash St., across the street from this site. Regarding the question of whether the developer should be required to build a sidewalk, Snyder said the town strategy map includes a focus on improving connectivity and King Street is the obvious east-west route across town. From a social and physical perspective, requiring the sidewalk to be built is a good idea, Snyder said. She pointed out that the small stretch of sidewalk that would be built along West King Street would at least give Nash Street residents pedestrian access to the new houses on West King Street. Regarding the shared driveway becoming a private road, Snyder said she also wonders why Wagner should have to share a private driveway as a private road. Snyder said further north on Nash Street, a neighbor was using a shared driveway until the driveway became the domain of a private developer as a private road; the developer is now not allowing the longtime resident to park on the shared driveway. Snyder expressed concern that the part of Wagner's property that is being used as the shared driveway could fall under the developer's domain as a private road. Regarding the name of the private road, Snyder expressed disapproval over the name VIMA Court. She said she would prefer for neighbors to have input on the name and for the name to have historical reference. Snyder said that the town's strategy map includes preservation of the town's history. When developers apply names of their companies or randomly name private roads or developments, it takes away some of the history of the land, Snyder said. She suggested naming the private road after the Payne family or their history of being stone and brick masons.

Harris said the name of the road is not determined by this board. Also, Harris said that he thought the property swap with the Mayos conveyed to Mathewson the triangular sliver on the survey indicated as neither belonging to Mathewson or to Wagner. Harris also added that he agrees the private road should not be located on Wagner's property.

David Wagner, grandson of the elder David Wagner and previously sworn in, addressed the board. He said he went to the Orange County Land Records/GIS office and was told that the property is split down the middle of the shared driveway and that a car could not be driven on the driveway without being half on Wagner's property. King noted

that no one from the county office was present to provide sworn testimony. Herman said the information that the driveway is half on Wagner's property conflicts with both surveys.

The elder David Wagner said he is concerned about liability if someone gets hurt on his property and he wants the shared driveway closed.

Mathewson said he did not name the private drive VIMA Court and wasn't sure how that came to be its proposed name. King explained that the applicant is asked to provide street names and then the names are checked by Orange County Land Records/GIS to make sure the street name is not a duplicate to avoid any confusion for Emergency Services. He suggested that someone who works with Mathewson may have supplied the names. Mathewson said he strongly agrees with Snyder that the name should be a name of historical significance like Payne. Also, the driveway should only serve those two houses in perpetuity. Mathewson said the driveway has been crossing over the property line for more than 20 years, so the State considers it acceptable to permanently be that way. Mathewson apologized to the senior David Wagner for not speaking with him before the meeting. He said he has been talking with the man who is renting Wagner's house because he thought that man was the property owner.

King said if the subdivision is approved, the private road would be in the current driveway's location. A private road maintenance agreement must be recorded with the Orange County Register of Deeds, stating who must maintain the road. The limitation of the road to providing access for only those two houses would be in that agreement. King said it would be a good idea to specifically state that limitation even if future lots are subdivided. There is not a private easement now. It's hard to attach a written document that governs use if there isn't an easement there now.

Herman said reserving the road for access only for those two houses is a good idea. He said the property owners need to work out the boundary agreement. He does not see enough evidence to say there is a safety issue involved with the private road.

There was some discussion of closing the public hearing. King suggested that the board discuss the waivers while the public hearing is open.

King asked if the board agreed that no traffic analysis is needed. The board agreed. Regarding recreation, the board was fine with Mathewson doubling the recreation area but concerned about how all three lots would gain access to it. King said the original proposal was to provide almost 0.5 acres as an "open space area" lot with a 10-foot access easement for the open space leading to and crossing the private road over to Lot 3. King had suggested the applicant abandon the open space lot and ask for a waiver from the open space requirement because it really would serve no purpose and not link to other open space in the area; it would just be an island of empty land. King said the town attorney has assessed it would need to be 0.6 acres to count as open space. This is because the open space requirement would have to be applied to the original 5 plus acre parent parcel which includes the previous lots created under the minor subdivision procedure. King indicated on a map where a pedestrian easement could be offered. It was clarified that open space has to have access to a public street, but that this would be recreation space, which would only be for residents of the subdivision.

Herman asked the board if it would grant a waiver from the required open space provisions of the UDO. King said the recreation area being offered instead of open space could be very specifically accepted by the board. The board could specify that it has to be 15,000 square feet dedicated out of Lot 1 and that it be contiguous to the northwest corner of Lot 2. King said that would be relatively centrally located. Residents of Lot 3 would have to walk across someone's property to reach it. The developer could put in the 10-foot easement and specify the easement is for pedestrian access to the recreation site. Herman said that the board seemed willing to approve the first waiver regarding open space with the conditions discussed.

The board then discussed the second waiver, which requested payment in lieu of building a sidewalk along West King Street. Herman asked if the board thought that accepting a payment in lieu was better than having Mathewson build the sidewalk. Sykes said there are public safety and health concerns regarding providing sidewalks for pedestrians on this section of West King Street. Even if it is a sidewalk to nowhere, it is valuable, Sykes said. Harris asked if it is safer to build a 100-foot stretch of sidewalk on the other side of the street. Sykes said the 80% payment in lieu option is not enough money to pay for a sidewalk on the other side. Williams said the problem with payments in lieu is that the town does not get a sidewalk built in the immediate area shortly after the money is accepted. Williams said Hillsborough needs more connectivity. He thinks the Board of Adjustment has accepted several payments in lieu for past projects and added that he agrees with Harris in that he does not want short sections of sidewalk scattered on the north and south sides of West King Street instead of one continuous sidewalk. Herman asked for everyone’s opinion. Remington wanted the sidewalk. Herman asked for a straw poll of how many want to deny the sidewalk waiver. Herman said the majority of the board determined that the requirement should not be waived. It was noted that Harris did not vote to deny the waiver.

The board then discussed the third waiver that private streets are only approved in minor subdivisions and noted that this is not technically a minor subdivision. The board was OK with this waiver so long as there is written understanding that only Lots 2 and 3 with the two existing houses have access to the private street.

Regarding Waiver 4, that the developer is required to provide a tree inventory and tree protection plan, the board was OK with granting the waiver because the houses are existing, and the developer is not removing any trees.

King suggested that Mathewson comment on the waivers. Mathewson said he does not mind building the sidewalk, but he would like to see it connect to somewhere.

The board then reviewed the findings of fact. The board members said they have not heard testimony that the private road would negatively affect Wagner’s property value. It was noted there is a licensed real estate agent in the audience.

Terry Poteat, previously sworn in, addressed the board. Poteat said he is a licensed real estate agent working with Mathewson. Poteat said it is his professional opinion that any development tends to enhance the value of adjacent property as opposed to not developing. Poteat said when the shared driveway was initially built, permission was granted for it to be located where it is. Poteat added that the shared driveway has been in use for many decades.

King said when he has discussed these types of divisions with the North Carolina Department of Transportation, he asks if driveway permits are needed when changing an existing driveway to a private road. The state has said that NCDOT would rather not review it when the road is essentially a shared driveway. To NCDOT, it is still a shared driveway. That is his statement of knowledge.

Remington said it is a matter of ordinance requirements that it be changed to a private road, but it is just a change in name and does not physically change the driveway. To Remington, that indicates it does not change the property.

Motion: Williams moved to close the public hearing. Sykes seconded.

Vote: Unanimous

Motion: Remington moved to find that the Conditional Use Permit to subdivide a 4.09-acre tract of land into three lots under the Conditional Subdivision procedure at 119 and 121 N. Nash St. meets the four standards for Conditional Use Permits set forth in the Town of Hillsborough Unified Development Ordinance Paragraph 3.9.3 (General Standards/Findings of Fact) and moved to approve the Conditional Use Permit with conditions. Harris seconded.

Vote: Unanimous

Waivers Granted from Section 6 (Development Standards) of the Unified Development Ordinance:

Waiver 1 — Subsection 6.12 (Open Space), Paragraph 6.12.2 (Applicability): “Every applicant for a Master Plan, Conditional Use Permit or Special Use Permit for residential and/or non-residential purposes involving the creation of multiple lots from a parent parcel shall be required to dedicate a portion of the parcel for the purpose of preserving open space, and to preserve significant natural features and/or cultural resources.”

Waiver Granted: 0.6 acres (26,136 square feet) of open space is required to be provided within the subdivision. The project, as presented, contains no open space area. The Applicant, at the suggestion of the Board, agreed to provide a 15,000 square foot (0.34-acre) recreation space lot within the subdivision instead. The recreation area agreed upon is roughly twice the amount required to be provided (0.174 acres or 7,578.44 square feet). This agreement was codified into a Permit approval condition.

Waiver 3 — Subsection 6.21 (Streets), Paragraph 6.21.2 (Applicability), second paragraph: “Private streets are generally only permitted in minor subdivisions or within attached dwelling developments and are also regulated by this section.”

Waiver Granted: A 30-foot wide private road containing an existing grave driveway off North Nash Street, as shown on the proposed subdivision plan, is allowed to serve two of the lots within the subdivision.

Waiver 4 — Subsection 6.22 (Tree Protection Standards), Paragraph 6.22.2 (Applicability), first paragraph: “Every application for Master Plan, Site Plan, Special Use Permit, Conditional Use Permit or grading plan for a site 10,000 sf or larger or any modification to any of the listed permit types shall provide a tree inventory and protection plan. This plan shall also be included in the grading plan of the construction drawings for any of the review types listed.”

Waiver Granted: Tree protection data is not required since no tree removal is proposed or required as part of the project.

Conditions of approval:

Condition 1 — In-lieu of dedicating required open space within the subdivision, the applicant shall provide a 15,000-square-foot recreation site lot in the upper northwest corner of the subdivision and abutting Lot 2. The recreation site lot will be accessed by a 10-foot-wide private pedestrian easement. The easement shall extend from the eastern lot line of the recreation site lot, run along the northern boundary line of Lot 2 and connect to the western property line of Lot 3.

Condition 2 — The private road shown on the proposed subdivision plan shall serve lots 2 and 3 only. No additional lots, new or existing, may take any access from the private road.

5. Other business

None.

6. Committee and staff reports

None.

7. Adjournment

Motion: Harris moved to adjourn at 9:28 p.m. Williams seconded.

Vote: Unanimous

DRAFT

Item #3

Approved:

Tom King, AICP, CZO
Senior Planner
Secretary to the Board of Adjustment

TOWN OF HILLSBOROUGH BOARD OF ADJUSTMENT**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR VIMA, LLC –
119 AND 121 NORTH NASH STREET
(CASE #BA-05-2019)**

WHEREAS, the Town of Hillsborough Board of Adjustment (“Board”) received an application from VIMA, LLC, a North Carolina limited liability company (“Applicant”), for a Conditional Use Permit to allow the creation of three lots from a 4.09-acre tract of land under the Conditional Subdivision procedure of the Town of Hillsborough UDO (Unified Development Ordinance); and

WHEREAS, the property subject to the request is also owned by VIMA, LLC and located at 119 and 121 North Nash Street (identified as Orange County Parcel Identification Numbers 9864-66-5555; and

WHEREAS, the Applicant requested waivers from the following standards of UDO Section 6 (Development Standards):

1. Subsection 6.12 (Open Space), Paragraph 6.12.2 (Applicability): “Every applicant for a Master Plan, Conditional Use Permit or Special Use Permit for residential and/or non-residential purposes involving the creation of multiple lots from a parent parcel shall be required to dedicate a portion of the parcel for the purpose of preserving open space, and to preserve significant natural features and/or cultural resources.”

2. Subsection 6.17 (Sidewalks and Walkways), Sub-paragraph 6.17.3.1 (Development Sites), first paragraph: “If a parcel fronts on a street segment designated as a high priority or Orange County priority sidewalk segment in the sidewalk recommendation map of the Community Connectivity Plan, any new development on that parcel shall construct a public sidewalk along the designated frontage. The permit issuing authority may modify this requirement upon presentation by the applicant for development approval of competent evidence demonstrating that strict compliance with this standard is not economically feasible or reasonably practicable due to topography, riparian buffer requirements, or other similar reasons. The permit issuing authority may, as a condition of any waiver or modification of this sidewalk requirement require a partial payment equal to no more than the cost of the sidewalk segment for which the waiver or modification are granted. All payments received shall be deposited into the Town’s sidewalk construction capital fund.”

3. Subsection 6.21 (Streets), Paragraph 6.21.2 (Applicability), second paragraph: “Private streets are generally only permitted in minor subdivisions or within attached dwelling developments and are also regulated by this section.”

4. Subsection 6.22 (Tree Protection Standards), Paragraph 6.22.2 (Applicability), first paragraph: “Every application for Master Plan, Site plan, Special Use Permit, Conditional Use Permit or grading plan for a site 10,000 sf or larger or any modification to any of the listed permit types shall provide a tree inventory and protection plan. This plan shall also be included in the grading plan of the construction drawings for any of the review types listed;” and

WHEREAS, after giving notice thereof as required by law, the Board held a quasi-judicial hearing on the matter on July 10, 2019 to receive the project staff report and hear evidence, testimony and a request for waivers from certain specific standards of Section 6 (Development Standards) of the UDO, from the Applicant, Property Owner and others regarding the request; and

WHEREAS, after due consideration of the Applicant’s request for waivers from certain specific standards of Section 6 of the UDO as enumerated above, the Board agreed to grant all requested waivers with the exception of the request for a waiver from UDO Subsection 6.17 (Sidewalks and Walkways), Paragraph 6.17.3 (General Provisions), Sub-paragraph 6.17.3.1 (Development Sites), first internal paragraph, and that the required sidewalk must be installed along the project’s West King Street frontage; and

WHEREAS, the Board determined no contested facts, as applied to the application and the applicable standards of the UDO, were presented.

NOW, THEREFORE BE IT RESOLVED by the Board that it finds that the requested Conditional Use Permit will:

1. Be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. Comply with all required regulations and standards of the Unified Development Ordinance, including all applicable provisions of Sections 4 (Zoning Districts), 5 (Use Standards) and 6 (Development Standards), and all applicable regulations;
3. Be located, designed, and operated so as to maintain or enhance the value of contiguous property; and
4. Conform with the general plans for the physical development of the Town as embodied in the Town’s Comprehensive Plan.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board this 10th day of July 2019 hereby **APPROVES** the application for a Conditional Use Permit for the VIMA, LLC project **SUBJECT TO THE FOLLOWING WAIVERS FROM UDO SECTION 6 AND CONDITIONS:**

Waivers:

1. Subsection 6.12 (Open Space), Paragraph 6.12.2 (Applicability): “Every applicant for a Master Plan, Conditional Use Permit or Special Use Permit for residential and/or non-residential purposes involving the creation of multiple lots from a parent parcel shall be required to dedicate a portion of the parcel for the purpose of preserving open space, and to preserve significant natural features and/or cultural resources.”

Waiver Granted: 0.6 acres (26,136 square feet) of open space is required to be provided within the subdivision. The project, as presented, contains no open space area. The Applicant, at the suggestion of the Board, agreed to provide a 15,000 square foot (0.34-acre) recreation space lot within the subdivision instead. The recreation area agreed upon is roughly twice the amount required to be provided (0.174 acres or 7,578.44 square feet). This agreement was codified into a Permit approval condition.

2. Subsection 6.21 (Streets), Paragraph 6.21.2 (Applicability), second paragraph: “Private streets are generally only permitted in minor subdivisions or within attached dwelling developments and are also regulated by this section.”

Waiver Granted: A 30-foot wide private road containing an existing grave driveway off North Nash Street, as shown on the proposed subdivision plan, is approved to serve two of the lots within the subdivision.

3. Subsection 6.22 (Tree Protection Standards), Paragraph 6.22.2 (Applicability), first paragraph: “Every application for Master Plan, Site plan, Special Use Permit, Conditional Use Permit or grading plan for a site 10,000 sf or larger or any modification to any of the listed permit types shall provide a tree inventory and protection plan. This plan shall also be included in the grading plan of the construction drawings for any of the review types listed.”

Waiver Granted: Tree protection data is not required since no tree removal is proposed or required as part of the project.

Conditions:

1. In-lieu of dedicating required open space within the subdivision, the Applicant shall provide a 15,000 square foot recreation site lot in the upper northwest corner of the subdivision and abutting Lot #2. The recreation site lot will be accessed by a 10-foot wide private pedestrian easement. The easement shall extend from the eastern lot line of the recreation site lot, run along the northern boundary line of Lot #2 and connect to the western property line of Lot #3.

2. The private road shown on the proposed subdivision plan shall serve Lots 2 and 3 only. No additional lots, new or existing, may take any access from the private road.

DRAFT

Item #5.a

WHEREFORE, upon a motion by David Remington, seconded by Bill Harris, the foregoing Resolution was put to a vote of the Board, the results of which vote are as follows:

Ayes: Chair Randy Herman, Vice Chair David Remington, Bill Harris, Jenn Sykes and Dustin Williams

Noes: None.

Absent or Excused: Rob Bray and Brian Perkins

Randy Herman, Chair
Town of Hillsborough Board of Adjustment

NOTE: If you are dissatisfied with the decision of this Board, an appeal in the nature of certiorari may be taken to the Superior Court of Orange County within 30 days after the decision of the Board is filed in the office of the Planning Director, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chair of the Board at the time of its hearing of the case, whichever is later (reference NCGS 160A-388(e2)).

Waivers Required/Requested from Unified Development Ordinance Section 6 (Development Standards):

Subsection 6.12 (Open Space), Paragraph 6.12.2 (Applicability): "Every applicant for a Master Plan, Conditional Use Permit or Special Use Permit for residential and/or non-residential purposes involving the creation of multiple lots from a parent parcel shall be required to dedicate a portion of the parcel for the purpose of preserving open space, and to preserve significant natural features and/or cultural resources."
Reason for Need: No dedicated open space is proposed.

Subsection 6.15 (Recreation Sites), Paragraph 6.15.2 (Applicability), first paragraph: "Every development proposal containing 5 or more residential units, whether attached or detached, shall include dedication of a portion of the land for public recreation to serve the leisure needs of the residents of the development."
Reason for Need: No recreation space is proposed and no payment in-lieu offered.

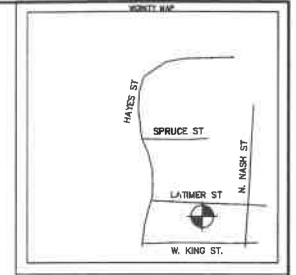
Subsection 6.17 (Sidewalks and Walkways), Sub-paragraph 6.17.3.1 (Development Sites), first paragraph: "If a parcel fronts on a street segment designated as a high priority or Orange County priority sidewalk segment in the sidewalk recommendation map of the Community Connectivity Plan, any new development on that parcel shall construct a public sidewalk along the designated frontage. The permit issuing authority may modify this requirement upon presentation by the applicant for development approval of competent evidence demonstrating that strict compliance with this standard is not economically feasible or reasonably practicable due to topography, riparian buffer requirements, or other similar reasons. The permit issuing authority may, as a condition of any waiver or modification of this sidewalk requirement require a partial payment equal to no more than the cost of the sidewalk segment for which the waiver or modification are granted. All payments received shall be deposited into the Town's sidewalk construction capital fund."
Reason for Need: West King Street is identified as a "High Priority Sidewalk" street on the "Comprehensive Pedestrian Plan" found in the adopted Community Connectivity Plan. Therefore, a sidewalk is required along the project's West King Street frontage.

Subsection 6.21 (Streets), Paragraph 6.21.2 (Applicability), second paragraph: "Private streets are generally only permitted in minor subdivisions or within attached dwelling developments and are also regulated by this section."
Reason for Need: The proposed subdivision is not an attached dwelling development and is no longer considered a "Minor Subdivision," therefore, a public street built to Town public street standards is required to serve the two proposed lots.

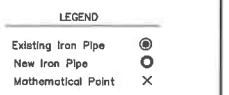
Subsection 6.22 (Tree Protection Standards), Paragraph 6.22.2 (Applicability), first paragraph: "Every application for Master Plan, Site plan, Special Use Permit, Conditional Use Permit or grading plan for a site 10,000 sf or larger or any modification to any of the listed permit types shall provide a tree inventory and protection plan. This plan shall also be included in the grading plan of the construction drawings for any of the review types listed."
Reason for Need: The application is for a Conditional Use Permit involving a site that is larger than 10,000 square feet in area. Only partial tree protection information is provided.

NOTES:
-PROPERTY IS ZONED R-15
-ADJOINING PROPERTIES ARE ZONED R-15 & R-10
-IMPERVIOUS AREA USED: BUILDINGS AND STRUCTURES: 4301 SQ. FT. DRIVEWAYS: 4433 SQ. FT.
TOTAL IMPERVIOUS SURFACE AREA: 8734 SQ. FT.
-TOTAL ACREAGE SUBDIVIDED: 4.09 AC.±
-VIMA COURT ROAD NAME HAS BEEN APPROVED BY ORANGE COUNTY ADDRESSING STAFF.

GENERAL NOTES:
1. ALL WATER AND SEWER PROCEDURES OF THE TOWN OF HILLSBOROUGH WILL BE FOLLOWED.
2. THE HILLSBOROUGH FIRE CHIEF RECOMMENDATIONS WILL BE FOLLOWED.
3. ALL NEW UTILITIES WILL BE UNDERGROUND.
4. A VESTED RIGHT PURSUANT TO G.S. 160A-385.1 AND SECTION 1.8 OF THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF HILLSBOROUGH IS ESTABLISHED AS OF THE DATE HEREOF. UNLESS TERMINATED AT AN EARLIER DATE, THE VESTED RIGHT OF THE APPROVAL SHALL BE VALID UNTIL ~~7-10-2020~~ **7-10-2021**
5. THIS PLAN, IF APPROVED, WILL EXPIRE IF SIGNIFICANT MEANINGFUL CONSTRUCTION HAS NOT BEGUN BY ~~7-10-2020~~ **7-10-2021**
6. RESIDENTS OF LOTS 2 AND 3 WILL BE REQUIRED TO BRING THEIR RECYCLING CART TO NORTH NASH STREET BY 7:00 A.M. ON THE ASSIGNED COLLECTION DAY(WEDNESDAY) FOR COLLECTION

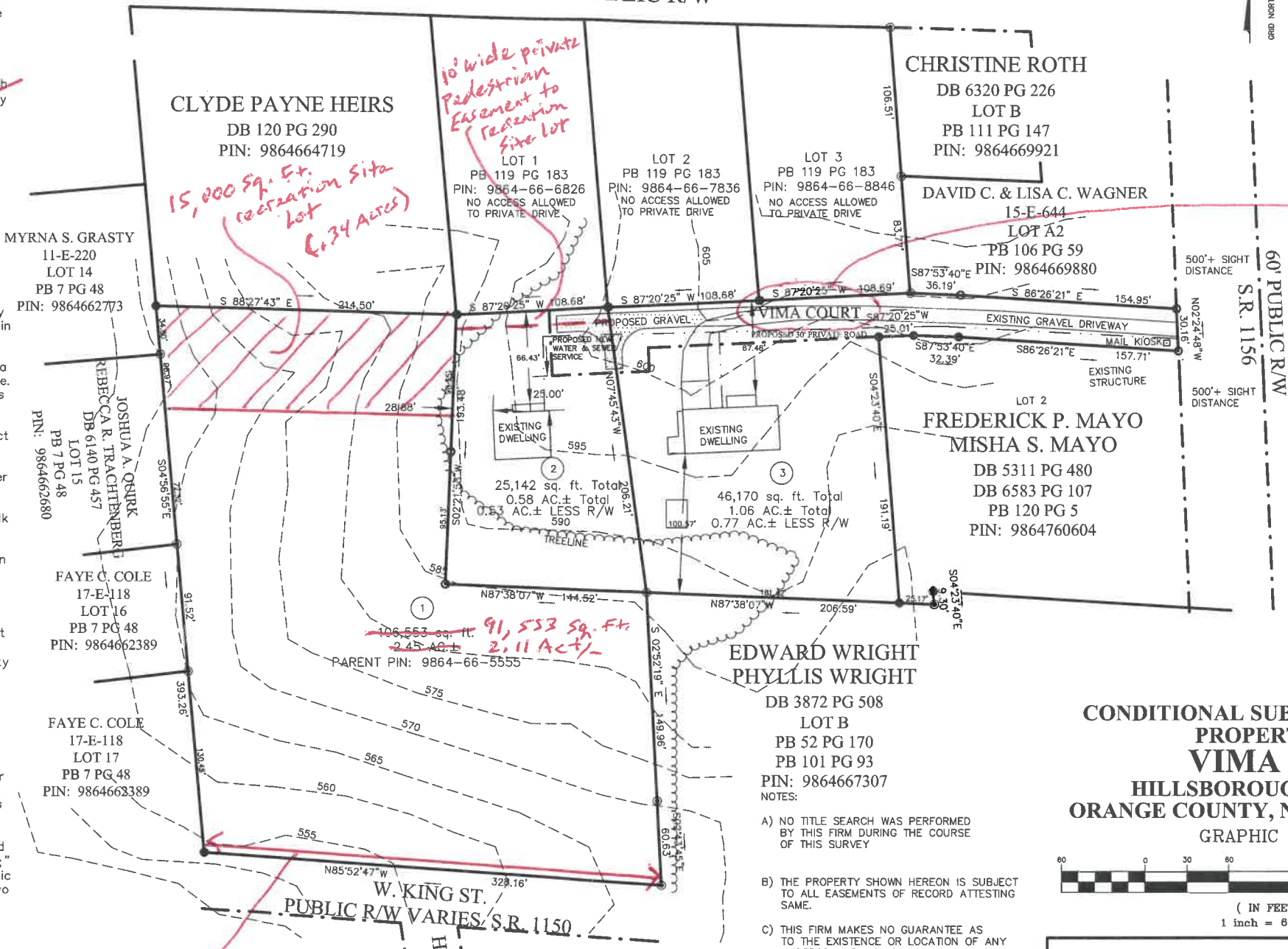


NO NCGS MONUMENTS FOUND WITHIN 2000' OF SURVEY.



OWNER/APPLICANT
VIMA LLC
106 S. NASH ST.
HILLSBOROUGH, NC 27278
919-638-4027

LATIMER ST.
33' PUBLIC R/W



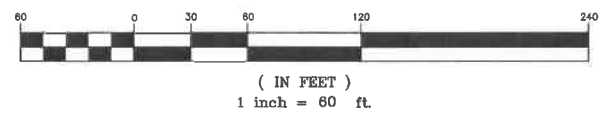
Waiver not needed or granted

Waiver not granted

Developer agreed to change name to "Mason Payne Road" after 7/10/2019 BDA meeting.

5' wide sidewalk to be constructed per VDO Subsection 6.17

CONDITIONAL SUBDIVISION PLAN
PROPERTY OF
VIMA LLC
HILLSBOROUGH TOWNSHIP
ORANGE COUNTY, NORTH CAROLINA
GRAPHIC SCALE



CAROLINA CORNERSTONE
SURVEYING & LAND DESIGN
3028-D ROCK HILL ROAD
BURLINGTON, NORTH CAROLINA 27215
(336) 222-1856 (336) 215-2539
BUSINESS LIC: F-0975 WWW.CAROLINACORNERSTONE.COM

SCALE: 1" = 60'	DATE: 03/07/19
	REVISED: 06/26/19
SURVEY BY: DEK	DWG BY: JHL
	APP'D BY: JHL
JOB# 181113KING SKETCH PLAN	

- NOTES:
- A) NO TITLE SEARCH WAS PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY
 - B) THE PROPERTY SHOWN HEREON IS SUBJECT TO ALL EASEMENTS OF RECORD ATTESTING SAME.
 - C) THIS FIRM MAKES NO GUARANTEE AS TO THE EXISTENCE OR LOCATION OF ANY UNDERGROUND UTILITIES OR IMPROVEMENTS ON OR ACROSS THIS PROPERTY. ANY UNDERGROUND UTILITIES OR IMPROVEMENTS SHOWN HEREON HAVE BEEN LOCATED FROM VISIBLE EVIDENCE AND AVAILABLE INFORMATION.
 - D) THERE ARE NO NCGS MONUMENTS WITHIN 2000' OF SURVEY.
 - E) NO INTERNAL INSPECTION OF THIS PROPERTY WAS MADE BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
 - F) FLAGGING ALONG PROPERTY LINES ARE FOR INFORMATIONAL PURPOSES ONLY AND TO SHOW APPROXIMATE LOCATION OF PROPERTY LINES. THIS SHOULD NOT BE CONSIDERED AS THE EXACT LOCATION OF PROPERTY LINES.

THE EXISTING HOMES ON LOT 2 & 3 ONLY HAVE ONE WATER METER SERVING BOTH. EACH HOME WILL BE REQUIRED TO HAVE ITS OWN TAP AND METER TO MEET TOWN REQUIREMENTS. NEW SERVICE TO BE INSTALLED AS SHOWN ON PLAT.

THE EXISTING HOMES ON LOTS 2 & 3 ARE SERVED BY ONE 6" INCH SEWER SERVICE. THE SERVICE WILL BE UPGRADED TO MEET ENGINEERING REQUIREMENTS BY THE TOWN OF HILLSBOROUGH. NEW SERVICE TO BE INSTALLED AS SHOWN ON PLAT.