

STAFF EVALUATION

To: City Council

Prepared By: Garek Hannigan 727-6301
Reviewed By: Mike Hayes, AICP 728-5244
Bonnie Brown, Deputy City Attorney

Case No.: Subdivision Exception Application No. 21-0001

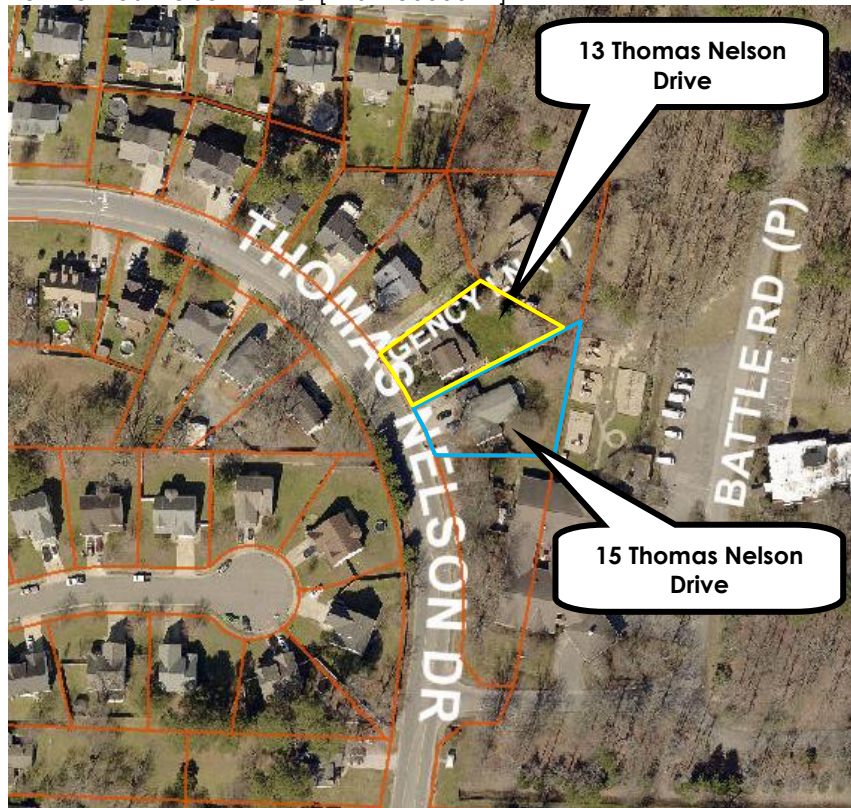
Date: September 8, 2021

General Information

Applicant Christopher R. & Amy W. Barbour

Property Owners Christopher R. & Amy W. Barbour
Henry Ortiz Guinoo

Location 13 Thomas Nelson Drive [LRSN 5000021]
15 Thomas Nelson Drive [LRSN 5000022]



Requested Action Exception to sections 35-10(B)(2), 35-10(B)(6), and 35-71(H) of the subdivision ordinance.

Existing Land Use Single family residence

Zoning One Family Residential district (R-11)

Applicable Sections of the Subdivision Ordinance

Sec. 35-10(B)(2) - The adjustment or vacation does not result in the creation of irregularly shaped lots.

Sec. 35-10(B)(6) - The boundary line adjustment or vacation plat shall comply with the provisions of article II of this chapter unless waived by the subdivision agent.

Sec. 35-71(H) - Irregular or non-rectangular lot patterns are generally prohibited. However if the subdivider can justify the establishment of an irregular or non-rectangular lot pattern (i) due to exceptional physical or topographical circumstances and conditions affecting the overall parcel; and (ii) demonstrate that the proposed irregular or nonrectangular lot pattern will not adversely affect the long-term viability and marketability of the lot and other lots in the area, when considering use, re-use, or redevelopment of buildings and sites, the subdivision agent may approve such an irregular lot or lot pattern. Side lot lines shall be substantially at right angles to the street on which the lot faces, radial to curves of the street, or radial to the cul-de-sac turn-around.

Analysis

Subdivision Exception application No. 21-0001 is the second subdivision exception request in the City of Hampton. This process was adopted in 2011 alongside the subdivision ordinance, and was last exercised in February of 2014 (Subdivision Exception Application No. 14-0001). Unlike the land use applications typically seen by Planning Commission and City Council, which are measured against adopted policies and plans, subdivision exceptions are requests to omit or modify the regulations governing the subdivision of a piece of property and require demonstration that the request meets all of a very specific set of criteria identified in the ordinance.

The table below lays out those criteria and the staff's findings.

Criteria	Finding
1. Strict adherence to the ordinance requirement will cause undue hardship.	Does not meet
2. The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others.	Does meet

3. The facts upon which the petition request is based are unique to the property for which the relief is sought and are not applicable generally to other property so as not to make reasonably practical the formulation of general regulations to be adopted as an amendment to this chapter.	Does not meet
4. No objection to the exception has been received in writing from city's fire chief, or any affected state, federal or local agency including, but not limited to Langley Air Force Base.	Does meet
5. The hardship is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of the property. Personal, financial, or self-inflicted hardship shall not be considered proper justification for an exception.	Does not meet
6. The relief sought will not in any manner vary the provisions of chapters 9, 13.1, 33.2 and 44.1 of the City Code, the "City of Hampton Landscape Guidelines", the zoning ordinance, comprehensive plan, or official map, except that those documents may be amended in the manner prescribed by law.	Does meet

While staff acknowledges that the proposed Boundary Line Adjustment does not result in any negative impacts to the public safety, health, or welfare of any adjacent property owner or other city, state, federal, or local agency, staff does not find that applicant has supplied ample evidence to justify the subdivision exception. Staff finds that the applicant has failed to provide a hardship which was not self-inflicted nor financially based, as set forth in the criteria above. Additionally, staff finds that the relief sought through the subdivision process could be attained through an easement, a process that would not involve the creation of an irregular lot.

Planning Commission recommends denial of this application.

Because the application fails to meet all six required criteria, staff recommends denial of this application.

However, if City Council is inclined to approve the application, staff recommends a condition be applied. That condition is attached and would require that the boundary line adjustment be in substantial conformance with the attached plat.