



# AGENDA ITEM SUMMARY FORM

**MEETING DATE:** July 17, 2024

**PREPARED BY:** Otis T. Spriggs, AICP, Development Services Director

**AGENDA CONTENT:** Conduct a public hearing (Continued), discussion, and take possible action on previously platted with approximately 70-ft. deep lots, reducing the minimum front yard setback from 15 ft. to approximately 7-ft., by a variance request of the City of Angleton, Code of Ordinances, Local Gov. Code 211.008 and variance to Sec. 28-50. - SFA—Single-family attached residential district (Townhomes). The subject property is located on Dennis Avenue, also known as Brushy Bayou Townhomes Sect. II, Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, T S Lee Survey, Abstract 318, Brazoria County, Texas; and zoned Single Family Attached, (SFA) District.

**AGENDA ITEM SECTION:** Public Hearings and Action Items

**BUDGETED AMOUNT:** N/A

**FUNDS REQUESTED:** N/A

**FUND:** N/A

**EXECUTIVE SUMMARY:**

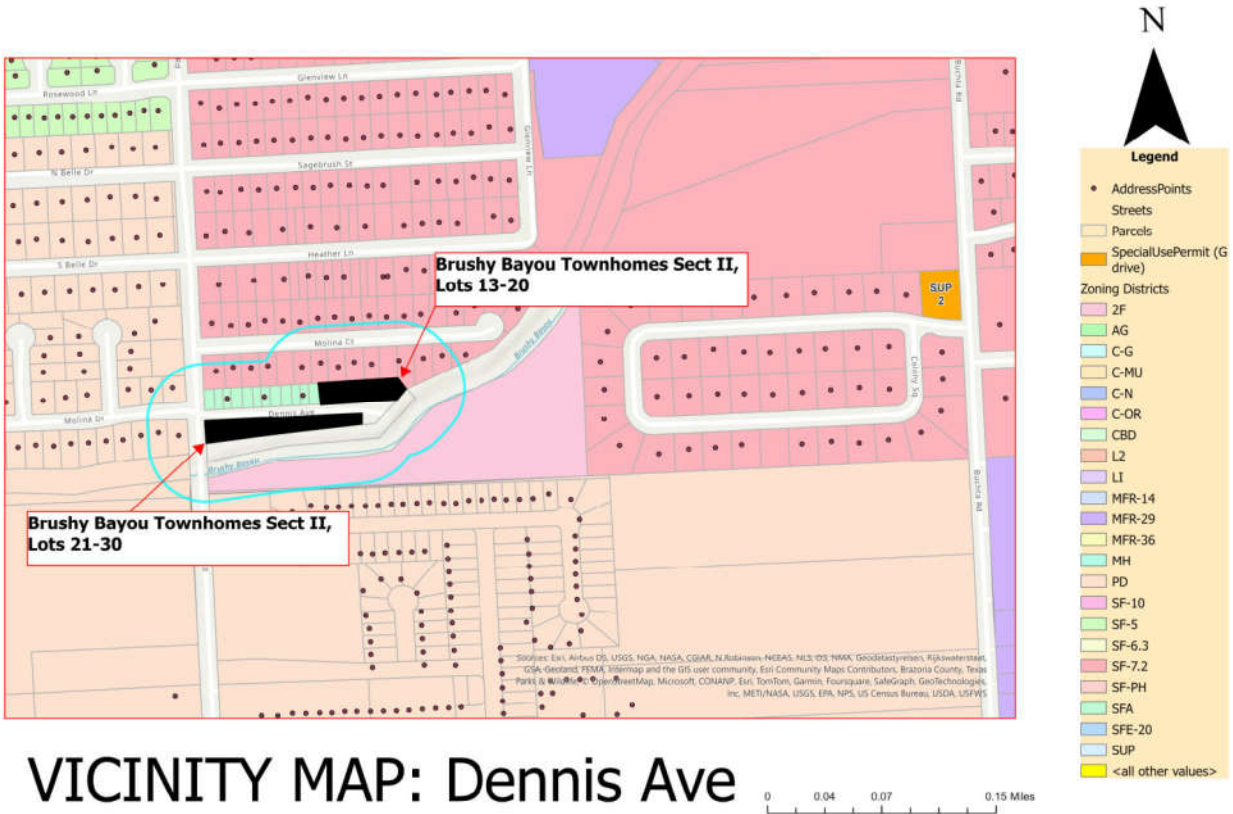
The applicant has filed a variance application on the subject property located on Dennis Avenue, also known as Brushy Bayou Townhomes Sect. II, Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, T S Lee Survey, Abstract 318, Brazoria County, Texas; and zoned Single Family Attached, (SFA) District for a reduced front yard setback to seven (7 ft.) feet, and a waiver of the requirement to stagger front yard setbacks to allow construction of multifamily units on the vacant lots that are similar to the existing structures previously built on lots from the same platted subdivision.

As noted under the City of Angleton Zoning Ordinance, Sec. 28-50. - SFA—Single-family attached residential district (Townhomes), (d) Area regulations (2) Size of yards: a. Minimum front yard: 15 feet; front yard setbacks shall be staggered in at least four-foot increments such that no more than two units have the same front setback in a row; no front-entry garages permitted unless the garage door or carport access opening is set back at least 20-ft. from the property line (i.e., the right-of-way or street easement line).

Staff has processed this application and scheduled the public hearing at the request of the applicant. The applicant has been notified that action of this variance request is contingent

upon the Owners Affidavit being filed at City Hall; the affidavit was since filed with the owner's signature.

Property owners within 200 ft. of the property were notified and the legal notice was posted in the local newspaper.



Vicinity & Zoning MAP

See Attachment 1 for Site Photographs



## Aerial Map

The current Dennis Avenue townhomes were previously approved as platted below. The current units do not meet current City requirements, and are grandfathered-in with front yard setbacks averaging 7'-0" in depth from the street right-of-way line. Thus, vehicles are currently encroaching into the public right-of-way.

Staff has alerted the applicant of the constraints of this approved plat that results in the vacant lots being difficult to site or locate new construction. This proposal as presented by the applicant has good merit and staff believes that it is an opportunity to finally complete the lots on the north side of the road (average of 5-units) and allow for at least 2 units on the south side of Dennis Ave. ***The applicant proposes to donate Lots 24-30 to the City for openspace trails or recreational purposes in exchange for Lot #25. Lot 25 is the last lot on the northside and was dedicated for recreational use on the original plat*** (this should be considered as a condition of any approval).



Possible Layouts for future townhomes (Northside)



Possible Layouts for future townhomes (Southside)



## Zoning Code / Variance Analysis:

**Sec. 28-23. Board of adjustment (BOA). F. (2).** No variance shall be granted without first having given public notice and having held a public hearing on the variance request in accordance with subsection (h) of this section and unless the board of adjustment finds:

a. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his/her land; *Staff confirms that despite several development discussions and interest from developers, the platted lots have remained undeveloped. Potential developers have declined to purchase and move forward with development due to the difficulty with meeting the strict application of the current setback regulations. There is a utility easement that further inhibits development. Any approval of the variance should be subject to the applicant hiring a professional engineer to evaluate the feasibility and possibility of the utility easement being abandoned. Allowing the setback changes will facilitate compliance with other regulations in this zone. (minimum square footage)*

b. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; *Applicant seeks relief by the Board to protect their right to develop and use their property similar to the other lots previously developed in the same subdivision.*

c. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;

*Staff confirms that the variance will not cause any detriment to public health and safety. The lots were originally platted for development on a cul-de-sac road. Other lots in the same platted subdivision have been built and used in a similar fashion.*

d. That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this chapter; and

*Staff confirms granting the variance will not interfere nor prevent the orderly use of other land within the area if all of the drainage constraints are recognized on the southern area.*

e. That a finding of undue hardship exists.

*Such findings of the board of adjustment, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the board of adjustment meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that public health, safety and welfare may be secured, and that substantial justice may be done.*

*Staff agrees the findings of undue hardship in granting this variance are properly established.*

**In order to grant a variance, the Board of Adjustment must make written findings that an undue hardship exists:**

Staff concurs that the difficulty caused is neither financial in nature, self-imposed nor generally affecting all or most properties in the same zoning district; and the relief sought will not injure the permitted use of adjacent conforming property; and the granting of a variance will be in harmony with the spirit and purpose of these regulations.

**RECOMMENDATION:**

Staff recommends that the Board of Zoning Adjustment finds that a hardship exists and grants the variances to Sec. 28-50. - SFA—Single-family attached residential district (Townhomes), (d) Area regulations (2) Size of yards: a. Minimum front yard, to allow for a reduced front yard unstaggered setback from 15 ft to 7ft on subject property located on Dennis Avenue, also known as Brushy Bayou Townhomes Sect. II, Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, T S Lee Survey, Abstract 318, Brazoria County, Texas and subject to the conditions that the applicant files the owner's affidavit and formally completes the subdivision platting process to consolidate, address the utility easement, and land swap parkland dedication reserve to be finally approved by City Council.

**Sample Motion:**

1: \*The Board of Zoning Adjustments has established findings of fact and determines that a hardship has been proven for the requested variances Sec. 28-50 (d) (2) a and hereby grants the variance subject to the conditions that the applicant files the owner's affidavit and formally completes the subdivision platting process to consolidate, address the utility easement, and land swap parkland dedication reserve to be finally approved by City Council.

*\*Board of Zoning members may vote Nay to DENY the petition due to findings that hardship is not demonstrated or such variance will adversely impact the general planning area.*