



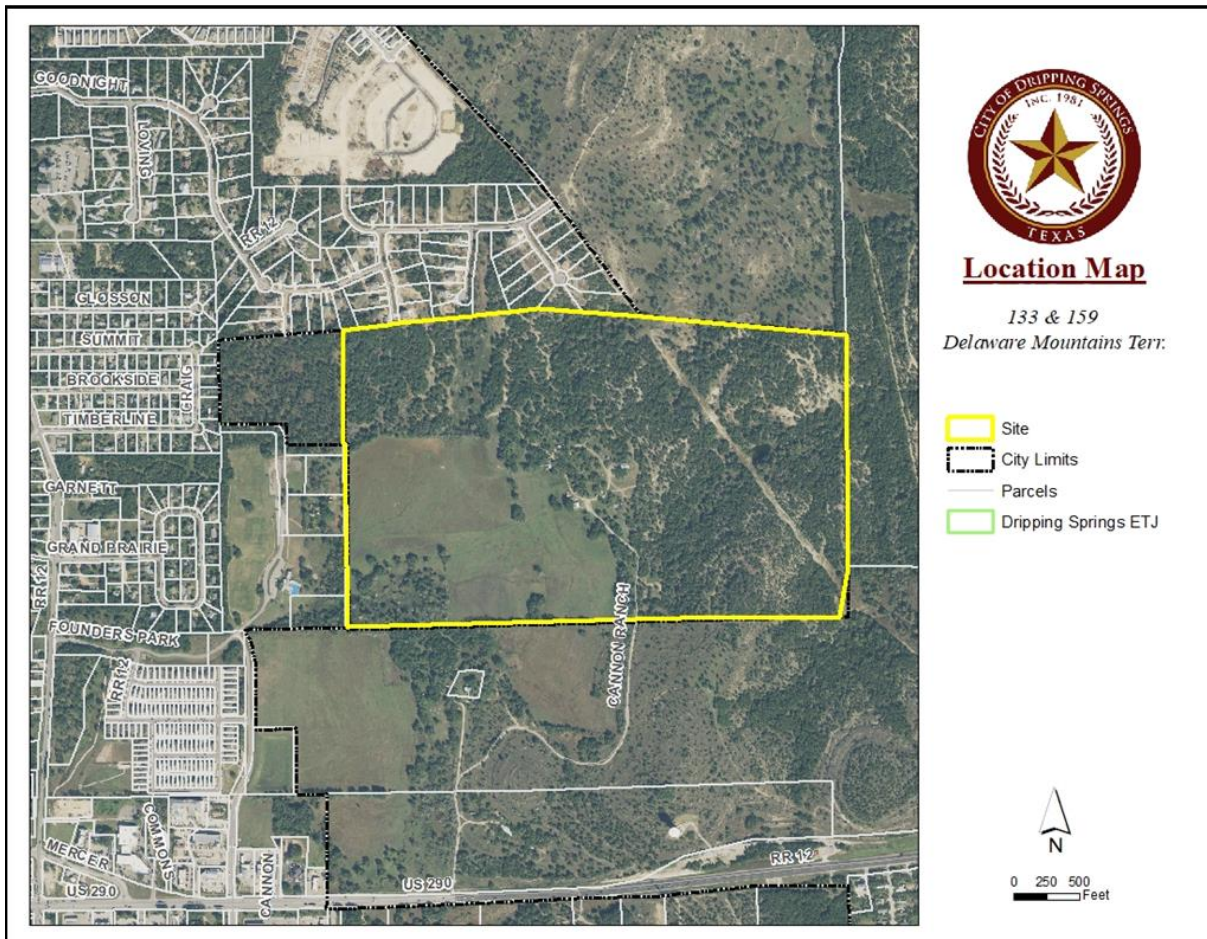
# Planning and Zoning Commission Planning Department Staff Report

**Planning and Zoning Commission Meeting:** June 22, 2021  
**Project No:** VAR2020-0026  
**Project Planner:** Amanda Padilla, Senior Planner

## Item Details

**Project Name:** Big Sky Ranch Phase 1 Encroachment/Setback Special Exception  
**Property Location:** 133 and 159 Dome Peak Terrace, Dripping Springs TX 78620  
**Legal Description:** Big Sky Ranch Phase 1 Final Plat  
**Applicant:** Christopher A Reid, PE, Doucet & Associates  
**Property Owner:** Meritage Homes  
**Request:** Applicant is requesting a special exception to encroach within the setback defined in Chapter 30, Exhibit B, Planned Development District 10, 2.4.5 (b) and the Public Utility Easement

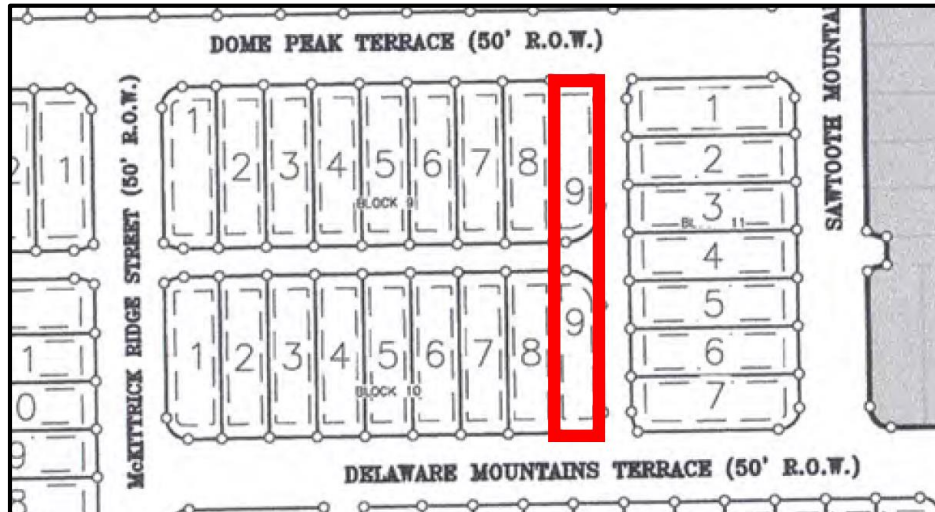
**Staff Recommendation:** Staff recommends denial of the Special Exception request



# Planning Department Staff Report

## Overview

The applicant is requesting a special exception to encroach into the setbacks defined in Chapter 30, Exhibit B, Planned Development District 10, 2.4.5 (b) Minimum Side yard and the Public Utility Easement. The applicant is asking to encroach two and a half feet (2.5') into the seven and a half foot (7.5') setback and five feet (5') into the ten foot (10') PUE for Block 9, Lot 9 and Block 10, Lot 9. See Below Image:



Below is the section of the code of ordinances that defines side yard setbacks:

### 2.4.5 Setbacks

- b. Minimum Side Yard: Building setbacks shall be five (5) feet; provided, however corner lots will be set back a minimum of seven and one half (7.5) feet from the street right-of-way.

Both lots are corner lots in this request, and both abut an alley street right-of-way. The lots adjacent in Block 11 have garages facing the side property lines of the Lots requesting this special exception. The Planned Development District does not define streets or alleys, so the City reverts to the Zoning Ordinance definition. The Zoning Ordinance definition of Alleys is below:

Alley: A minor right-of-way that affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

This definition indicates that side setbacks for Big Sky Ranch shall be seven and a half feet (7.5') from the alley. Block 9, Lot 9 and Block 10 Lot 9 both have a seven and a half foot (7.5') Building Line Setback and a Public Utility Easement.

Big Sky Ranch Planned Development District has a base zoning of SF-3, SF-3 side setbacks are listed below:

Minimum Side Yard Setback: Five feet (5'); corner lots - seven and one-half feet (7-1/2') from the street right-of-way.

Both the PDD and the City's Code of Ordinance outline a seven and a half foot (7.5') side setback for Corner Lots. The side setback for these lots also have a ten foot (10') Public Utility Easement for utilities. Exhibit 4 shows the intended utilities for all off Big Sky Ranch Phase 1.

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The lots requesting the special exception side façade of their home would be facing another residents garage (See Figure 1). The setback of seven and a half (7.5) feet is the city’s less restrictive setback for corner lots and reducing the setback to five (5) feet could lead to a safety issue. For example, the design of the lots could lead to residents driving into the side of the house when reversing out of their garage or while turning the corner into the alley. The alley right of way width is twenty feet (20’) and the pavement width is seventeen feet (17’).



*Figure 1: Images of properties that have the required 7.5' setback.*

## Surrounding Properties

The current zoning and existing uses of the adjacent properties/lots to the north, south, east, and west are within the Planned Development District 11. The Development is a dense development that can develop with no more than 780 LUEs, for Tract 1 of the Development.

## Property History

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In 2018, City Council approved Annexation, Zoning, and the Preliminary Plat for the Big Sky Ranch Development. In 2019 the Big Sky Ranch Phase 1 Final Plat was approved by City Council. In 2020 the applicant had a minor modification that reduced the Building Width from 25 feet to 23.5 feet. When the applicant was applying for building permits, they discovered that Block 9 Lot 9 and Block 10 Lot 9 were unbuildable and unable to meet the Planned Development District and City Code of Ordinances requirements for Building Width and Side setbacks. Thus, the applicant is applying to encroach within the Building Line setbacks and PUE so that they can meet the building width requirement.

## Approval Criteria for Special Exception (2.22.2-Zoning Ordinance)

Approval Criteria	
1. there are special circumstances or conditions affecting the land involved such that the literal enforcement of the provisions of this Chapter would deprive the applicant of the reasonable use of the land; and	
	There are not special circumstances or conditions that would deprive the applicant of reasonable use of the land, although there would not be the ability to currently build a home on each lot. Alternative uses that could benefit the development could be placed on the property.
2. the special exception is necessary for the preservation and enjoyment of a substantial property right of the applicant;	
	Currently the property is owned by the developer, Meritage Homes, this special exception is not necessary for preservation and enjoyment of the property or subdivision as a whole.
3. the granting of the special exception will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area; and	
	The special exception will be detrimental to the safety of the lots due to adjacent properties potentially reversing into the structure or hitting the side of the lot. Lots similar to these lots in the subdivision also have A/C units within the setback, which is allowed by code, that could be closer to the property line if the setback is reduced.
4. the granting of the special exception constitutes a minimal departure from this Chapter; and	
	The granting of this special exception could be considered minimal from the Chapter 30, Exhibit B, Planned Development District 10, 2.4.5 (b), because it will reduce the setback by just 2.5' feet but 2.5' in this instance can be a major departure due to safety of the lots and surrounding lots. 7.5 feet is the less intense setback for Main buildings that the City has for residential lots that abut a street.
5. the subject circumstances or conditions giving rise to the alleged hardship are not self-imposed, are not based solely on economic gain or loss, and do not generally affect most properties in the vicinity of the property; and	
	This is a self-imposed hardship the applicant was aware of the size of the house to be built and the setbacks put in place by the PDD. The setbacks and the size of residential houses was placed within the Planned Development District regulations.

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6. Granting the special exception is in harmony with the spirit, general purpose, and intent of this Chapter so that:
  - a. the public health, safety and welfare may be secured; and
  - b. that substantial justice may be done.

The granting of this special exception does not meet the intent of the code, which is to provide safety to the lots and surrounding lots.

## Summary and Recommendation

While the development as a whole would not be affected by this special exception, there are surrounding lots within the vicinity that could be affected by the special exception. Reducing the side setback from seven and a half (7.5) feet to five (5) feet, would bring the main structure closer to vehicular traffic. The issue was self-imposed by the developer and similar lots were constructed to meet the current city standards. Staff believes reducing the setbacks would not be appropriate for the development. The seven and a half foot setback is the less restrictive setback the city has in a residential zoning district and allowing the applicant to deviate from that could cause safety and aesthetic issues for the city.

Based on the above findings Staff believe that the intent of the code is not being met, and that granting the special exception will cause harm to the properties within the vicinity and the lots requesting the special exception. **Staff recommends denial of the special exception request.**

## Public Notification

A legal notice advertising the public hearing was placed in the Dripping Springs Century-News (July 9, 2020), signs were posted on the-site, notice was placed on the City Website, and all property owners within a 300-foot radius of the site were notified of the request.

## Meeting Schedule

Past Meetings:

- July 28, 2020 Planning and Zoning Commission - Postponed
- August 11, 2020 Board of Adjustment/City Council – Postponed
- August 25, 2020 Planning and Zoning Commission - Postponed
- September 8, 2020 Board of Adjustment/City Council – Postponed
- September 22, 2020 Planning and Zoning Commission - Postponed

Next Meetings:

- June 22, 2021 Planning and Zoning Commission
- July 6, 2021 City Council

## Attachments

Attachment 1 – Special Exception Application

# Planning Department Staff Report

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Attachment 2 – Image of Lots

Attachment 3 – Example Plot Plan

Attachment 4 – PEC and Texas Gas Utilities distribution

Attachment 5 – Big Sky Ranch Phase 1 recorded Final Plat

Attachment 6 – Photos taken by staff

Recommended Action	Recommend denial of the special exception
Alternatives/Options	Recommend approval of the requested special exception with staff and any additional conditions deemed necessary by the Commission; recommend approval of the special exception with no or alternate conditions.
Budget/Financial impact	N/A
Public comments	None received at this time
Enforcement Issues	N/A
Comprehensive Plan Element	N/A