



# Planning and Zoning Commission

## Planning Department Staff Report

### Planning and Zoning Commission Meeting:

August 25, 2020

### Project No:

VAR2020-0013

### Project Planner:

Amanda Padilla, Senior Planner

### Item Details

#### Project Name:

Big Sky Ranch Phase 1 Encroachment/Setback Variance

#### 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:

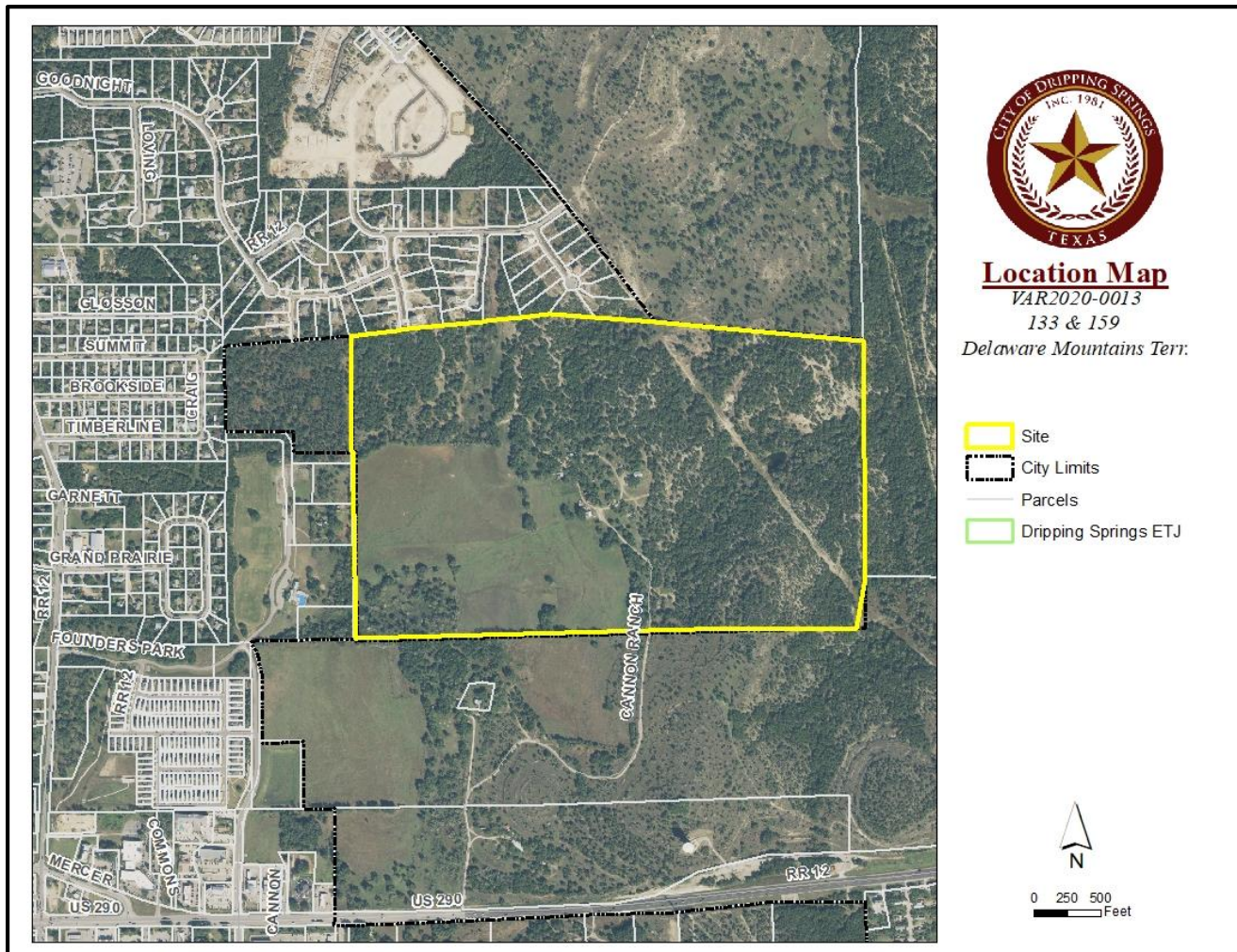
Meritage Homes

#### Request:

Applicant is requesting a variance 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:

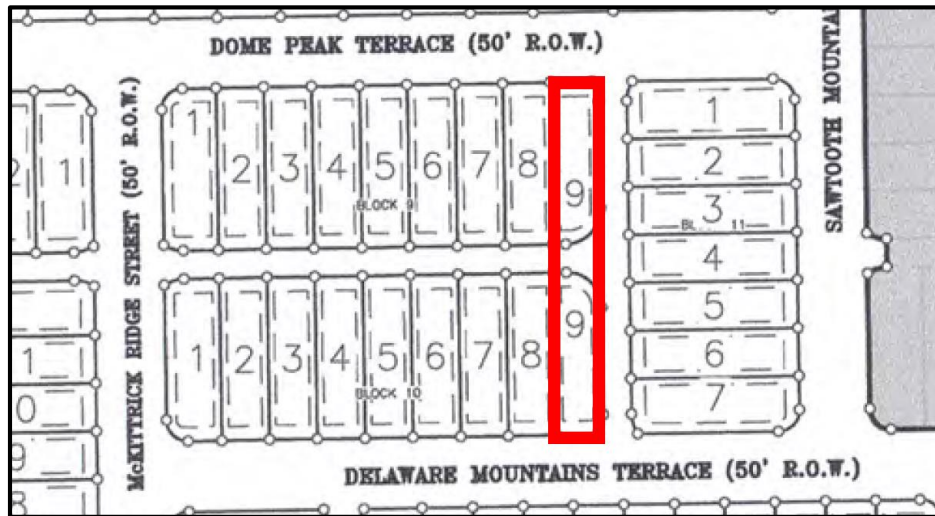
Staff recommends denial of the Variance request



# Planning Department Staff Report

## Overview

The applicant is requesting a variance 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 variance. 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 seven and a half foot (7.5') Public Utility Easement for utilities. Exhibit 4 shows the intended utilities for all off Big Sky Ranch Phase 1.

The lots requesting the variance side façade of their home would be facing another residents garage (See Figure 1). The setback of 7.5 feet is already a short setback and limiting it further 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').



# Planning Department Staff Report



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

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 Variances (2.22.2-Zoning Ordinance)

Approval Criteria	Staff Comments
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 build a home on each lot. Alternative uses that could benefit the development could be placed on the property, such as open space.
2. the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and By preserving the natural features and topography of the land; and	Currently the property is owned by Meritage homes that is developing the entire subdivision, so the variance is not necessary for preservation and enjoyment of the property or subdivision as a whole.
3. the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and	The variance 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

## Planning Department Staff Report

	closer to the property line if the setback is reduced.
4. the granting of the variance constitutes a minimal departure from this Chapter; and	The granting of this variance 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 smallest 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.
6. Granting the variance 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 variance does not meet the intent of the code, which is to provide safety to the lots and surrounding lots.

### Summary and Recommendation

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

Next Meetings:

August 25, 2020 Planning and Zoning Commission

September 8, 2020 Board of Adjustment/City Council

### Attachments

Exhibit 1 – Variance Application

Exhibit 2 – Image of Lots

## Planning Department Staff Report

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Exhibit 3 – Example Plot Plan

Exhibit 4 – PEC and Texas Gas Utilities distribution

Exhibit 5 – Big Sky Ranch Phase 1 recorded Final Plat

Exhibit 6 – Photos taken by staff

Recommended Action	Recommend denial of the variance
Alternatives/Options	Recommend approval of the requested variance with staff and any additional conditions deemed necessary by the Commission; recommend approval of the variance 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