

Applicant requests a Variance (Front Yard Setback) under Section 2.16.030 for a SmartCode development.

The variance request is for a proposed 149 unit apartment building to be developed under Title 21 (SmartCode) with a front yard setback of 44 feet.

The maximum permitted front yard setback for a SmartCode T-4O transect is 12 feet.

BACKGROUND

The applicant's representative has submitted an application for SmartCode (SCZ), T-4O Transect (General Urban-Open), zoning for this property that is currently zoned C-2 (Commercial). A community infill plan has been submitted as part of the application for rezoning. The plan shows a 149 unit apartment building for senior living on 5 acres of land. The request is for a Variance from the El Paso City Code, Title 21, SmartCode, Section 21.80, Tables, Table 4B, Public Frontages.

The T-4O Transect requires shallow front setbacks with buildings located close to the street, defining a street wall. The applicant is requesting the variance for the front setback from the required 12 feet to 44 feet along Castellano Drive, with the contention that the topography does not accommodate the building to be 12 feet from the street edge. The contour map submitted by the applicant shows an elevation difference between the centerline of Castellano and the building site of approximately 0 feet at the most easterly point and ranging to approximately 20 feet at the most westerly point of the building site. Over the span of the building site frontage Castellano drops in elevation approximately 23 feet, from east to west.

STAFF RECOMMENDATION

Staff recommends approval of the Variance request for a front yard setback of 44 feet as the request serves the public interest; the need exists due to the exceptional topographical conditions of the property creating an unnecessary hardship; and, the spirit of the ordinance will be observed and substantial justice will be done.

The Zoning Board of Adjustment is empowered under Section 2.16.030 to:

The board of adjustment may authorize in specific cases a variance from the terms of the zoning ordinance (Title 20) or as specified in (Title 21) SmartCode if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

The following questions should be carefully considered in order to grant a variance:

1. Is the variance consistent with public interest?
2. Is the need for the variance due to special conditions?
3. Would a literal enforcement of the ordinance create an unnecessary hardship?
4. Would the spirit of the ordinance be observed and substantial justice done if the variance is approved?

Definition of Unnecessary Hardship, Section 20.02.1128

"Unnecessary hardship" means a hardship by reason of exceptional shape of a lot, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Unnecessary hardship shall not include personal or financial hardship or any other hardship that is self-imposed.

APPENDIX A: Findings – Variances

INQUIRY	FINDINGS
<p>Is the request for a variance owing to special condition inherent in the property itself?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p>	<p>The property is/has ... (e.g., odd-shaped, unusual topography, etc.)</p>
<p>Is the condition one unique to the property requesting the variance?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p>	<p>The condition is unique to this property.</p>
<p>Is the condition self-imposed or self-created?</p> <p>If yes, STOP If no, PROCEED</p> <p style="text-align: center;">↓</p>	<p>The condition necessitating the request was not created by the property owner.</p>
<p>Will the literal enforcement of the zoning ordinance result in an unnecessary hardship?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p>	<p>Strict enforcement of the zoning ordinance would impose a hardship above that suffered by the general public.</p>
<p>Will the hardship prevent any reasonable use whatsoever?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p>	<p>Without the grant of the requested variance, the property owner would be deprived of the right to use his property. Financial considerations alone cannot satisfy this requirement.</p>
<p>Would the grant of the variance be contrary to public interest?</p> <p>If yes, STOP If no, CONTINUE</p> <p style="text-align: center;">↓</p>	
<p>Is the request within the spirit of the ordinance and does it further substantial justice?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p>	

CONSTRUCTION NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MONTICELLO, UTAH, ORDINANCES AND REGULATIONS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF MONTICELLO, UTAH.
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GENERAL NOTES

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LEGEND

- 1. 1" = 10' (VERTICAL)
- 2. 1" = 10' (HORIZONTAL)
- 3. 1" = 10' (HORIZONTAL)
- 4. 1" = 10' (HORIZONTAL)
- 5. 1" = 10' (HORIZONTAL)
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TABLE

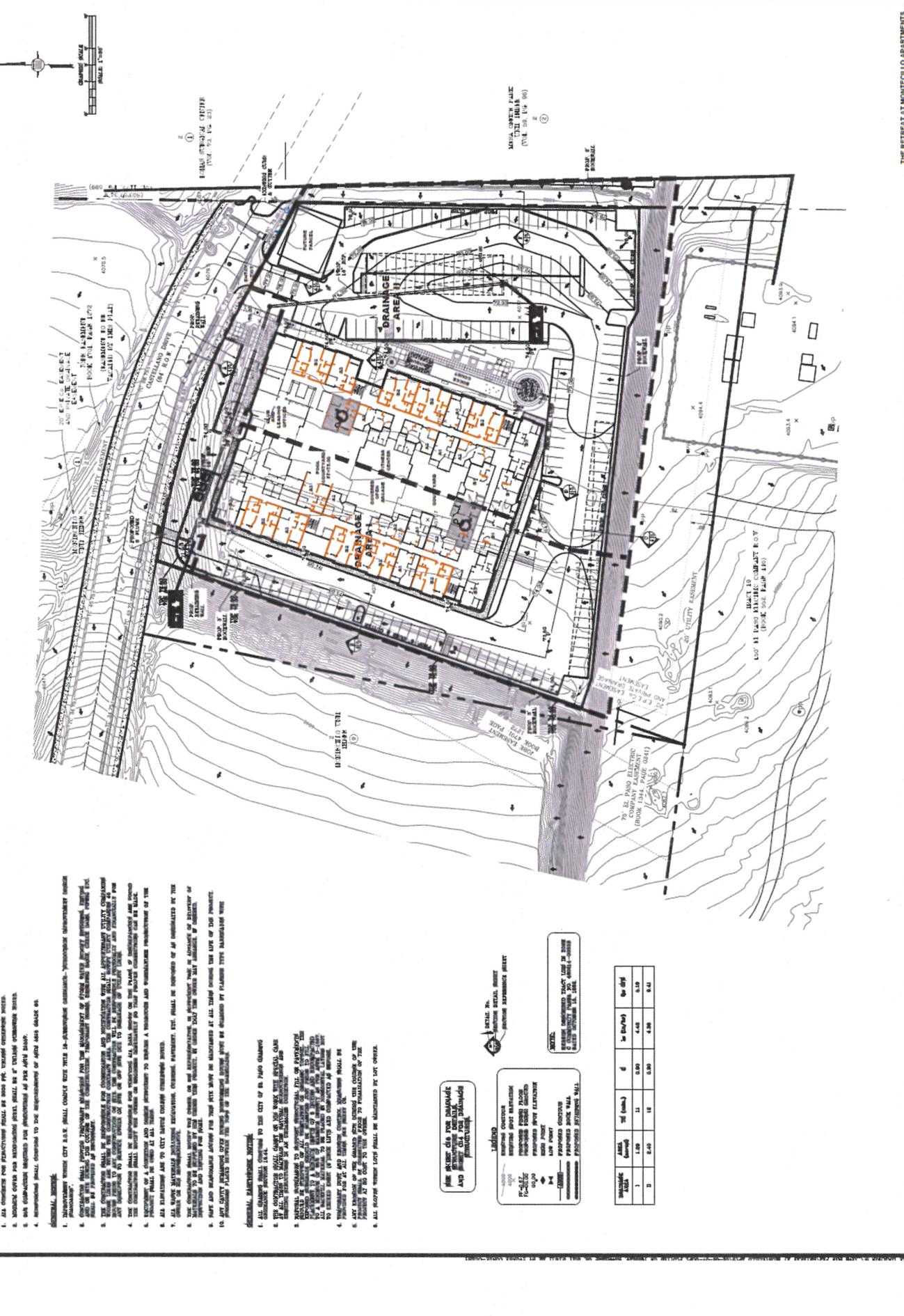
ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	Excavation	100	cu yd	10.00	1000.00
2	Concrete	50	cu yd	20.00	1000.00
3	Reinforcement	100	lb	0.50	50.00
4	Formwork	100	sq ft	1.00	100.00
5	Drainage	100	ft	1.00	100.00
6	Grading	100	sq ft	1.00	100.00
7	Site Work	100	hr	10.00	1000.00
8	Permit Fees	1	fee	100.00	100.00
9	Professional Fees	1	fee	100.00	100.00
10	Contingency	10	percent	10.00	100.00
TOTAL					5000.00

NOTES

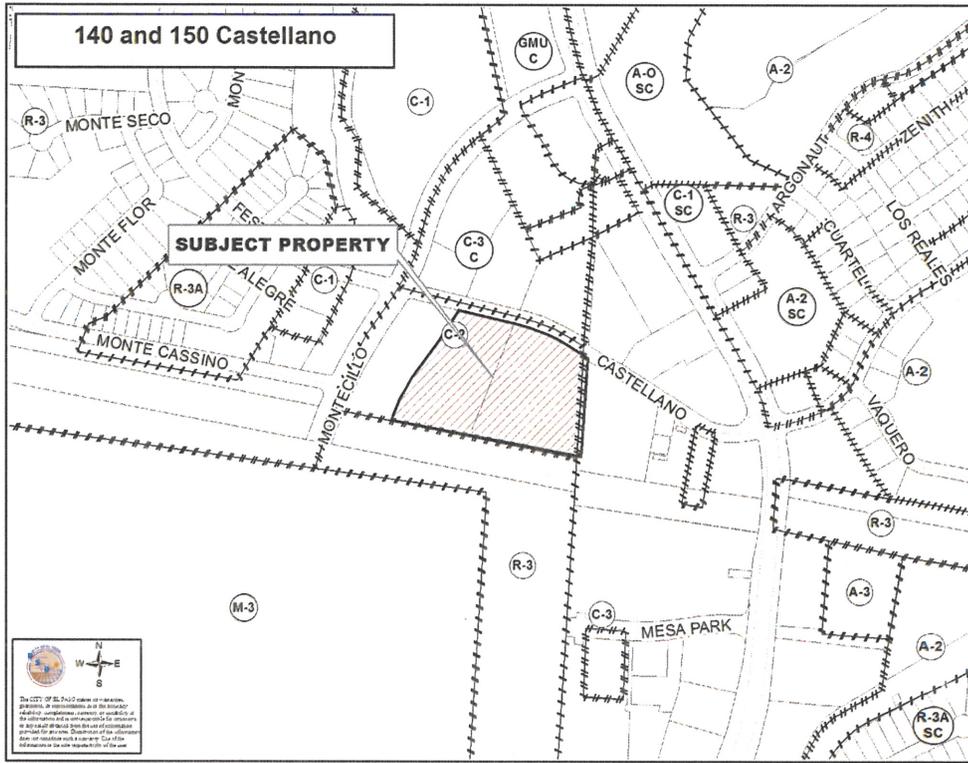
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APPENDIX

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ZONING MAP



NOTIFICATION MAP

