

#### Planning, Zoning, and Inspections

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#### **Zoning Board of Appeals Staff Report**

This staff report was prepared for the Zoning Board of Appeals meeting on April 8, 2024.

**Applicant(s):** Matthew Morton

**Property Address:** 608, 612, 616, and 620 Commerce Drive

**Parcel ID Numbers:** 15 246 01 013, 014, 015, and 016

**Land Use/Zoning:** Low Density Residential / R-60 Single Family

**Proposed Dev:** Quadplex and Duplex **Variance Request:** Front and Side Setback

#### 1. Variance Request

The applicant requests a variance from Section 3.2.4, Building Placement, of the R-60 zoning district:

R-60 Standard	Required per UDO	Proposed Variance
Front Yard Setback	30'	5'
Side Yard Setback	10'	5'

#### 2. Existing Site Features

The property is a group of four parcels measured at 0.59 acres (25,834 sqft.) in total size with frontage along Commerce Drive north of its intersection with East Ponce de Leon Avenue (see Exhibit G). The largest of the four parcels is located towards the site's northern boundary sitting at 15,999 square feet while the remaining three non-conforming parcels are all below the R-60 minimum lot size are located south of the parcel. The site is currently undeveloped with sidewalk existing along the site's frontage along Commerce Drive. The topography of the site shifts downward approximately 10-feet from Commerce Drive. No streams or floodplains are located within the subject property.

#### 3. Project Summary

The applicant proposes to construct three residential buildings: two quadplexes and a duplex on the 0.59-acre site. The site conceptual plans show access via Commerce Drive with two curb cuts. The quadplexes are located at the north and south portion of the site with the duplex located at the center of property. Surface parking spaces are located south of the northern quadplex and along the shared driveway to the rear of the site. At this time exact architectural designs and site features have not been finalized and the current project is seeking approval of setback variances to allow a larger building envelope.

#### 4. Surrounding Use and Zoning

The subject property is surrounded by a mixture of differing uses. The Decatur Cemetery, a city of Decatur Park zoned R-60 (Single Family Residential) is located north of the site adjacent to the subject property's northern property boundary. Decatur First Methodist Church zoned for Institutional is located across Commerce Drive west of the subject property. Low Density detached dwellings zoned R-60 are located south and east of the subject property. Apartments zoned RM-18 (Multiple Family Residential) are located northeast of the subject property (See Exhibit G for Zoning Map).

#### 5. Zoning and Development Standards

The following is a summary of applicable development standards for R-60 zoned properties from the Unified Development Ordinance (UDO):

Standard	Required
Lot Size	Minimum 9,000 SF
Lot Width	Minimum 60'
Building Height	Maximum 30'
Front Yard Setback	Minimum 30'
Side Yard Setback	Minimum 10'
Rear Yard Setback	Minimum 30'
Lot Coverage	Maximum 40%
FAR	Maximum 0.40

#### 6. Site Development Process

The project remains subject to all applicable codes of the Unified Development Ordinance. Further technical analysis of compliance with the lot division, building placement, architectural design, tree canopy, stormwater, off-street parking spaces, and local life safety and fire codes will take place and be implemented during the permitted process. All curb cuts for the site will be reviewed and approved by the Georgia Department of Transportation (GDOT) due to Commerce Drive being a Georgia state route. In addition, due to the Inclusionary Dwelling ordinance, development that proposes to construct five or more units on a property zoned for single-family use would be required to designate a minimum of ten percent of the total number of dwelling units or lots to be developed as inclusionary dwelling units.

#### 7. Staff Analysis

Staff recognizes that the lots are legal non-conforming in depth and size. Nonconforming-standards allow for the reconfiguration of lots only if the minimum lot area requirements are met on the R-60 zoning district. The character of this portion of Commerce Drive does not have large set of active residential uses, with the closest being a large lot single-family detached residence south the of the site at the corner of Commerce Drive and E Ponce de Leon Avenue. The three existing non-conforming lots have a depth of 65-feet within a zoning district that typically requires a minimum depth of 120-feet. Approval of the 5-foot front yard variance request would allow for greater usability for a middle housing development that would act as a transition between the downtown of the city and adjacent single-family detached residences. Due to UDO requirements the three non-conforming lots would be required to recombine to allow for the use of a quadplex or duplex. The recombination of these parcel would provide a greater area to meet the R-60 side setback requirements. Staff recommends approval of the 5-foot front yard variance request and denial of the side setback variance request.

#### 8. Criteria for Approval.

The Zoning Board of Appeals shall have the authority to authorize upon application in specific cases a variance from the terms of this UDO such as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this UDO will result in unnecessary hardship, but where the spirit of the ordinance shall be observed, and substantial justice done. Such special conditions shall be limited to exceptional narrowness, shallowness, or shape of a specific piece of property existing at the time of the enactment of this UDO, or exceptional topographic conditions or other extraordinary and exceptional situations or conditions of such piece of property as would result in peculiar, extraordinary, and practical difficulties. Per UDO Section 11.2.9.D, no variance shall be authorized unless the Board finds that all of the following conditions exist:

- a) The special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.
- b) The granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.
- c) The condition from which relief or a variance is sought did not result from action by the applicant.
- d) The authorizing of the variance will not impair an adequate supply of light and air to adjacent properties, unreasonably increase the congestion in public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of the City.

e)	The granting of the variance will be in harmony with the general purpose and intent of the
	Decatur Land Use Plan.

f) The granting of the variance will not allow a structure or use in a district restricted against such structure or use.

#### **Exhibits:**

- A. Site Visit Photos
- B. Variance Application Page and Criteria of Approval
- C. Narrative
- D. Survey
- E. Site Plan
- F. Conceptual Renderings
- G. Maps

#### **Exhibit A: Site Visit Photos**



View of the Site off Commerce Drive Towards the Northeast



View of the Site off Commerce Drive Towards the Southeast

## **Exhbit B: Variance Application Page and Criteria of Approval**

# VARIANCE APPLICATION

#### Planning & Zoning

2635 Talley Street Decatur, GA 30030 Phone 404-377-6198 Fax 404-378-5054



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½ x 11 format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

- 1. all property lines with dimensions
- 2. location of buildings and other structures, creeks and easements referenced to property lines
- 3. north arrow, scale, lot and block numbers and land lot

4. topographic and drainage information if pertinent	
Address of property 612 Commerce Dr	Decatur, GA 30030
Name of applicant Matthew Morton	Phone 508-314-2665
Address 1056 Standard Dr NE, Brookhaven GA 30319	City/state/ZIP 30319
Email matthew.adam.morton@gmail.com	
Name of property owner Commerce Fine Homes LLC	Phone 508-314-2665
Address 1056 Standard Dr NE, Brookhaven GA 30319	City/state/ZIP 30319
Current zoning of property R-60	
• • • • • • • • • • • • • • • • • • • •	
Please answer all of the following questions on a separate she	et.
1. What is the variance requested? What code requirement do	you wish to vary from?
<ol><li>What are the special conditions relating to the specific piec shape, topography, or other extraordinary and exceptional</li></ol>	
3. Explain how the application of the zoning ordinance to this	specific piece of property results in peculiar,

- 4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
- 5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
- 6. Did the condition for which the variance is sought result from an action by the applicant?
- 7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
- 8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.

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	e or use in a district restricted against such structure or use?
I hereby certify that the above and attached statements and do	cuments are true to the best of my knowledge and belief.
1 M A 1 1	

Applicant signature \_\_\_

extraordinary and practical difficulties?

#### Variance Application

#### 608, 612, 616, and 620 Commerce Dr Decatur, GA 30030

1. What is the variance requested? What code requirement do you wish to vary from?

The requested variance is a reduction of the front setback from 30 feet (under R-60 zoning) to 5 feet and the side setbacks to 5 feet on each side of the property.

2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?

608, 612, and 616 Commerce Dr are all only 70 feet deep. In addition, the lots are heavily wooded, particularly in the rear of the lots. The combined shallowness of the lots and location of trees makes it difficult to have sufficient space to build a livable structure on each lot.

3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?

Combined with the shallowness of the lots and the position of trees, the existing setbacks under the R60 zoning and the tree preservation ordinances do not allow sufficient space to build a livable structure.

4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?

The circumstances are unique to these lots. The only other structure on Commerce Dr on the block currently has a 10 foot setback from Commerce Dr. There are no other lots within the immediate vicinity known to have this circumstance.

5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.

Without the variance the lots are functionally unbuildable meaning the lots cannot be used for their residential purpose. The ability to use a residential lot for residential purposes is a fundamental property right that is lacking without this variance.

6. Did the condition for which the variance is sought result from an action by the applicant?

No. The lots have been in this configuration for a long time. The current lot configuration is the result of eminent domain, which reduced the lot depth by 30 feet, taking the front 30 feet of the property to expand Barry Street/Commerce Drive.

7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.

A change to the front setback should provide better light and air flow for the adjacent properties as it will provide more space between structures than the current setbacks allow. It will not create any substantial change to traffic, fire risk or public safety. The change to the setback enabling use of the land with subsequent construction should help increase neighboring property values.

8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.

There is only one other building on the block on Commerce Dr which currently has a 10 foot setback. Continuing beyond the nearest intersection, there are townhouses on the immediate next block that have a setback of 10 feet or less. Granting this setback will create harmony and a unified visual appeal to the block. The intended structures to be built match the current zoning and the addition of residential structures will complete the block improving the neighborhood feel within the city center.

In addition to providing harmony with the existing structures on the street there are four main benefits to reduced setbacks

- I. A reduced setback will enable better tree preservation, allowing construction further from existing trees.
- II. A reduced setback enables construction closer to the slope, which combined with the intended use of a basement structure, will lead to reduced land disturbance when building the basement
- III. Building closer to the street increases the buffer space between the rear neighbors, reducing noise and other disturbance for adjacent properties
- IV. Studies have shown that buildings closer to the street promote walkability and an improved cityscape by providing "eyes on the street" and creating a more urban cityscape. This will support pedestrian safety and promote walkability in the area.
  - 9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

No. There are no structures or uses planned in a district restricted against such structure or use.

#### **Exhibit C: Narrative**

## Letter of Intent In Support of Request for Variance 608, 612, 616, and 620 Commerce Dr. Decatur GA 30030

This Letter of Intent is in support of the request for a variance to the front and side setback requirements for the lots at 608, 612, 616 and 620 Commerce Dr. The intention is to build a 4-unit Walk Up Flat on 620 Commerce Dr, a Duplex on 616 Commerce Dr, and a 4-unit Walk Up Flat on the combination of 608 and 612 Commerce Dr. Under the current R-60 zoning the front setback of 30 feet and the side setback is 10 feet. These lots are also heavily wooded. In an effort to preserve trees, minimize the impact to the rear neighbors, and allow sufficient buildable space we are seeking to reduce the front and side setbacks to 5 feet.

The lots at 608, 612, and 616 Commerce Dr face a unique set of circumstances. Having given the front 30 feet of the lots to the conversion/expansion of Barry Street to Commerce Dr, they do not have sufficient space to build a liveable structure with the existing setbacks. Within the immediate cross-streets, there is only one other building on the block on Commerce Dr which currently has a 10 foot setback. Immediately to the south of the intersection at E. Ponce De Leon Ave there is a row of townhouses with a 5 foot setback from Commerce Dr and a 0 foot side setback from E Ponce de Leon Ave. Granting this setback will create harmony and a unified visual appeal to the block. The intended structures to be built match the current zoning requirements and the addition of residential structures will complete the block improving the neighborhood feel within the city center.

Developers have previously sought to change the zoning, increase density and increase building height. This would require significant land disturbance, would impact many of the trees on the lots, and create a greater disturbance to adjacent properties. In contrast, our proposed structures, with the requested variance, will have a positive impact on the neighborhood and environment. The four key benefits are:

- I. Better tree preservation, allowing construction further from the existing trees. Our goal is to maintain the existing canopy as much as possible, in alignment with the City of Decatur's goals. The trees are primarily located at the rear of the lot. Reducing the front and side setback to allow buildings to be built closer to the street will enable significantly more trees to be protected.
- II. Reduced land disturbance will be made possible with a reduced setback that allows construction closer to the slope, further reduced with the intended use of a basement structure.
- III. Maintained buffer between the rear neighbors, reducing noise and other disturbances for adjacent properties. Maintaining the buffer and preserving trees will reduce disturbance between properties and improve privacy.
- IV. Improved walkability and cityscape. Studies have shown that buildings closer to the street promote walkability and an improved cityscape by providing "eyes on the street"

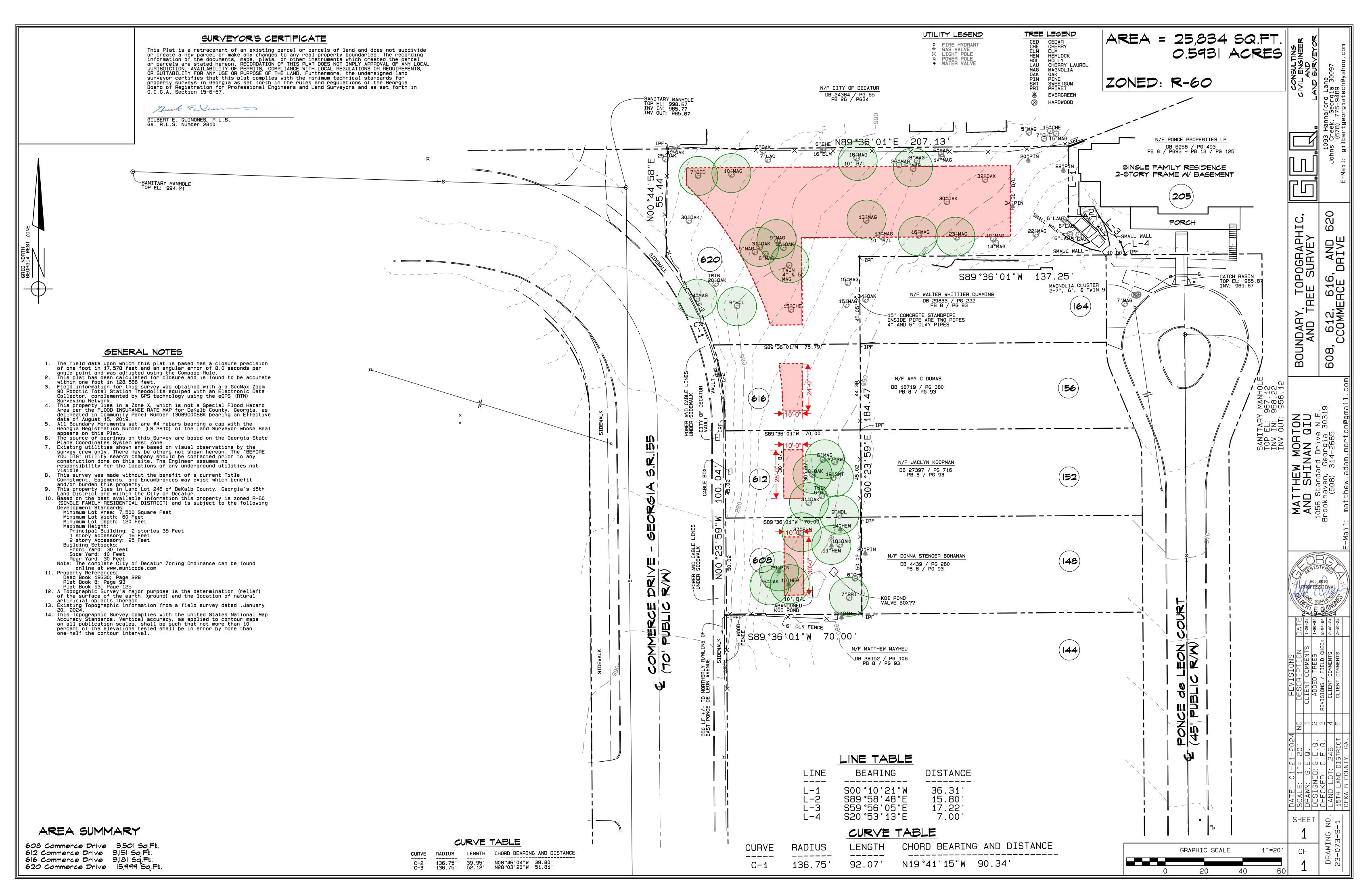
and creating a more urban cityscape. This will support pedestrian safety and promote walkability in the area.

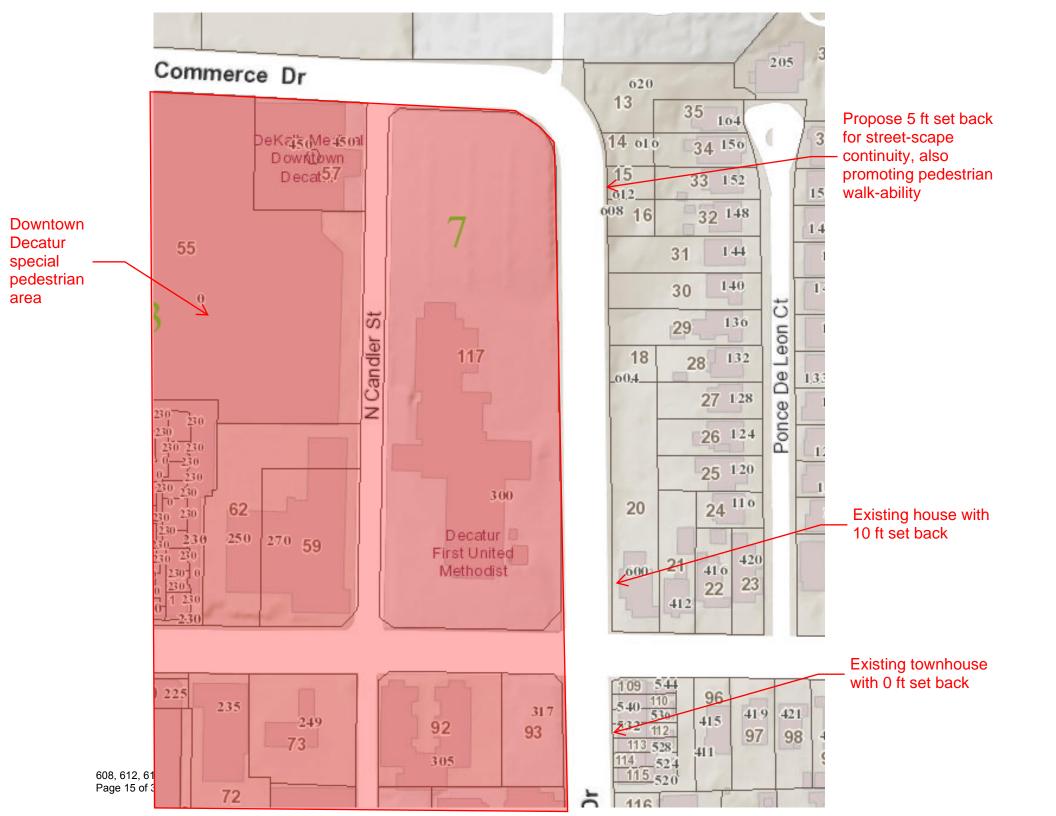
In addition to the above reasons, new construction, increased walkability, and an improved cityscape have a history of increasing property values for the neighborhood. As a result, this project will support an overall increase in property value and tax base created by the improvements.

Thank you for your consideration.

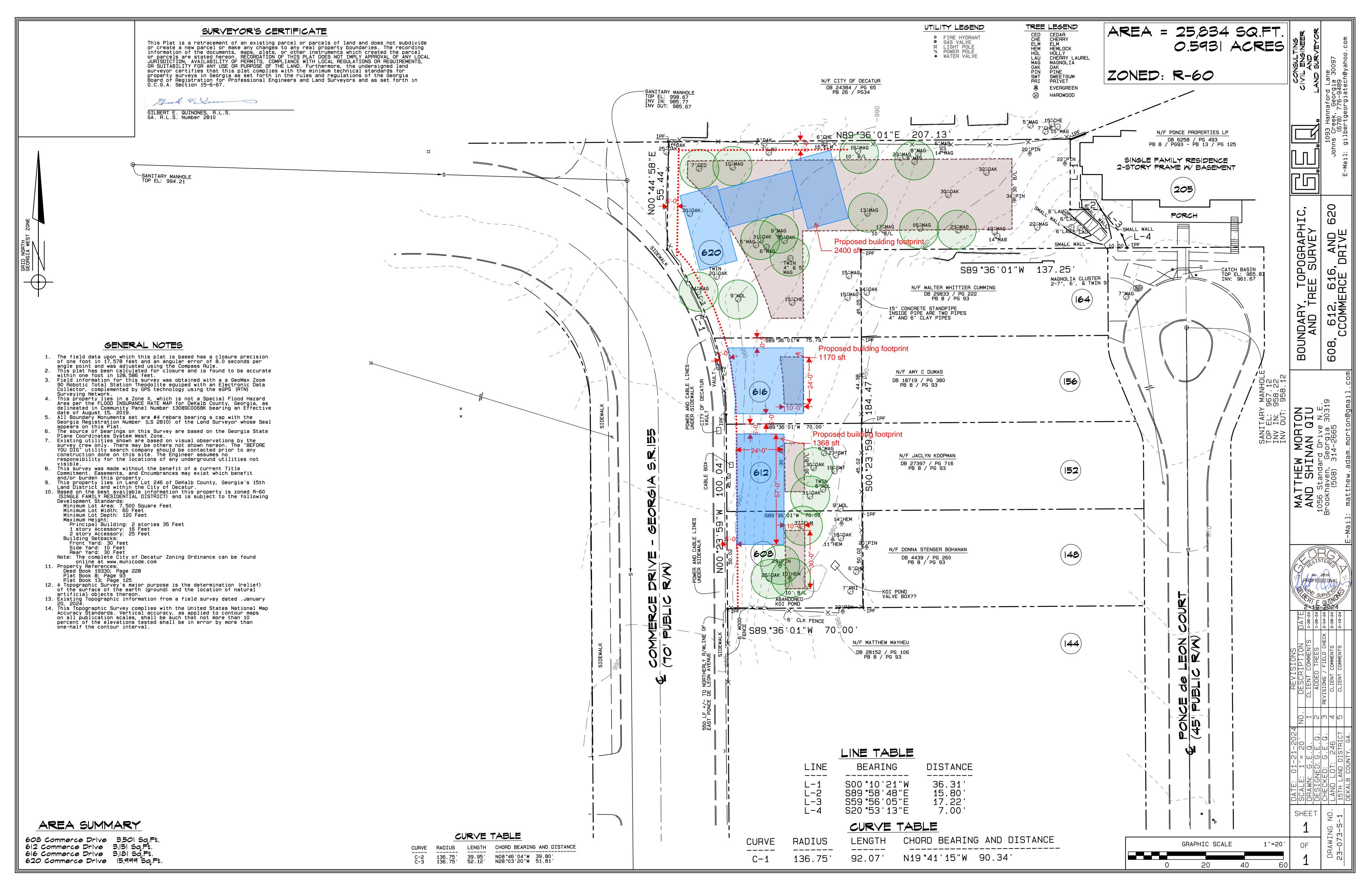
Respectfully submitted,

Matthew Morton
Commerce Fine Homes LLC

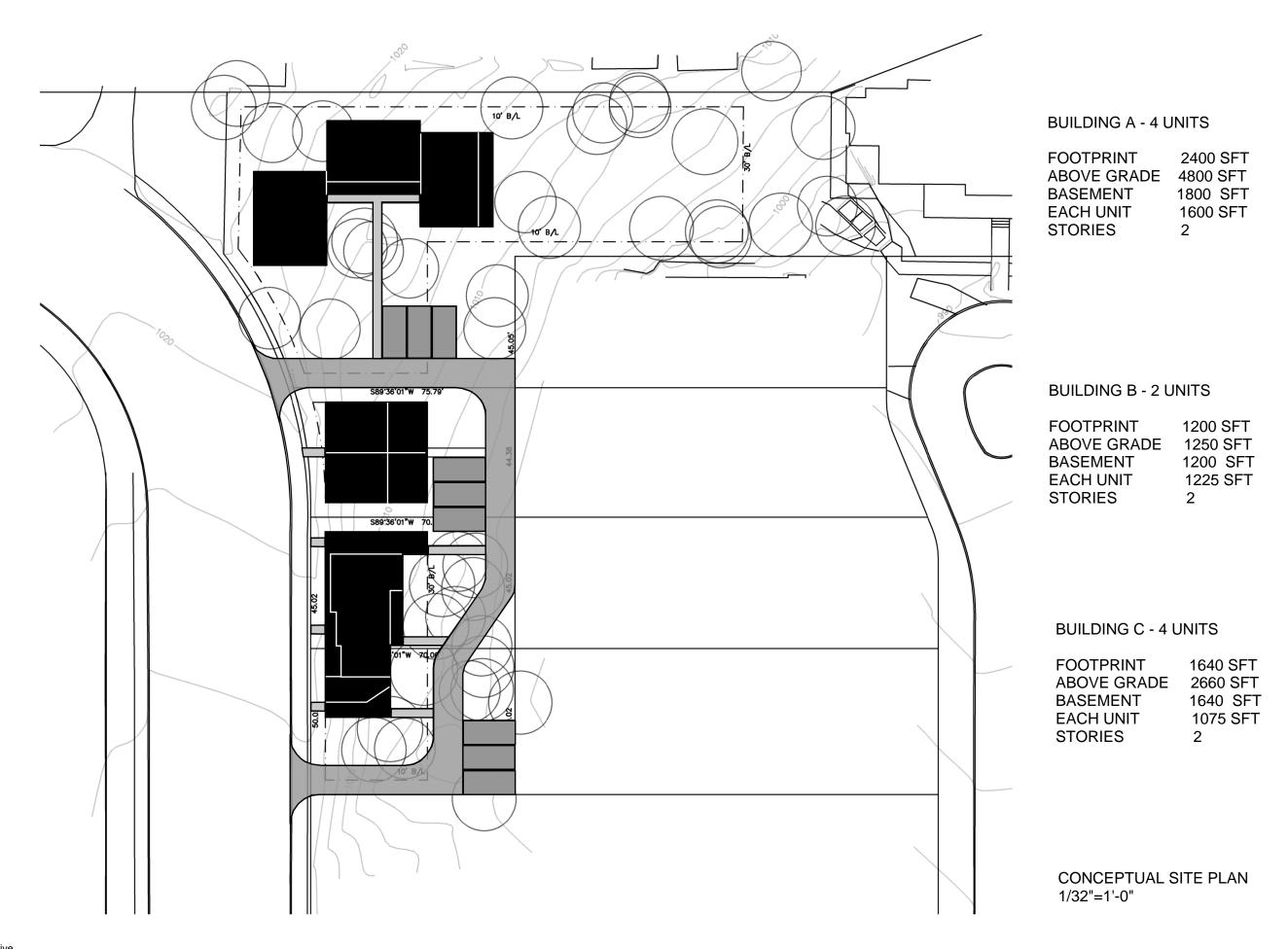




## **Exhibit D: Survey**



#### **Exhbit E: Site Plan**



UNIT A					UNIT B				
	Zoning Requirement	Proposed	Proposed program	Proposed sft		Zoning Requirement	Proposed	Proposed program	Proposed sft
Lot Size	15999				Lot Size	3181			
Lot Coverage	6400	3892	<b>Builing footprint</b>	2400	Lot Coverage	2131	2056	Builing footpri	1200
			Parking	1236				Parking	772
			Path	256				Path	84
Lot Disturbance	8000	3892			Lot Disturbance	2664	2340		
Floor Area Max	6400	4800	Above grade	4800	Floor Area Max	1272	1250	Above grade	1250
			Basement	1600				Basement	1200
Building height	2 stories/ 35' max	2 stories+ba sement			Building height	2 stories/ 35' max	2 stories + basement		
Rear setback	30'	30'			Rear setback	30'	30'		
Front setback	30'	5'			Front setback	30'	5'		
Side interior setback	10'/ 7.5'	5'/5'			Side interior setback	10'/ 5'	5'/5		

MEETS CURRENT ZONING REQUIREMENTS

VARIANCE APPLIED

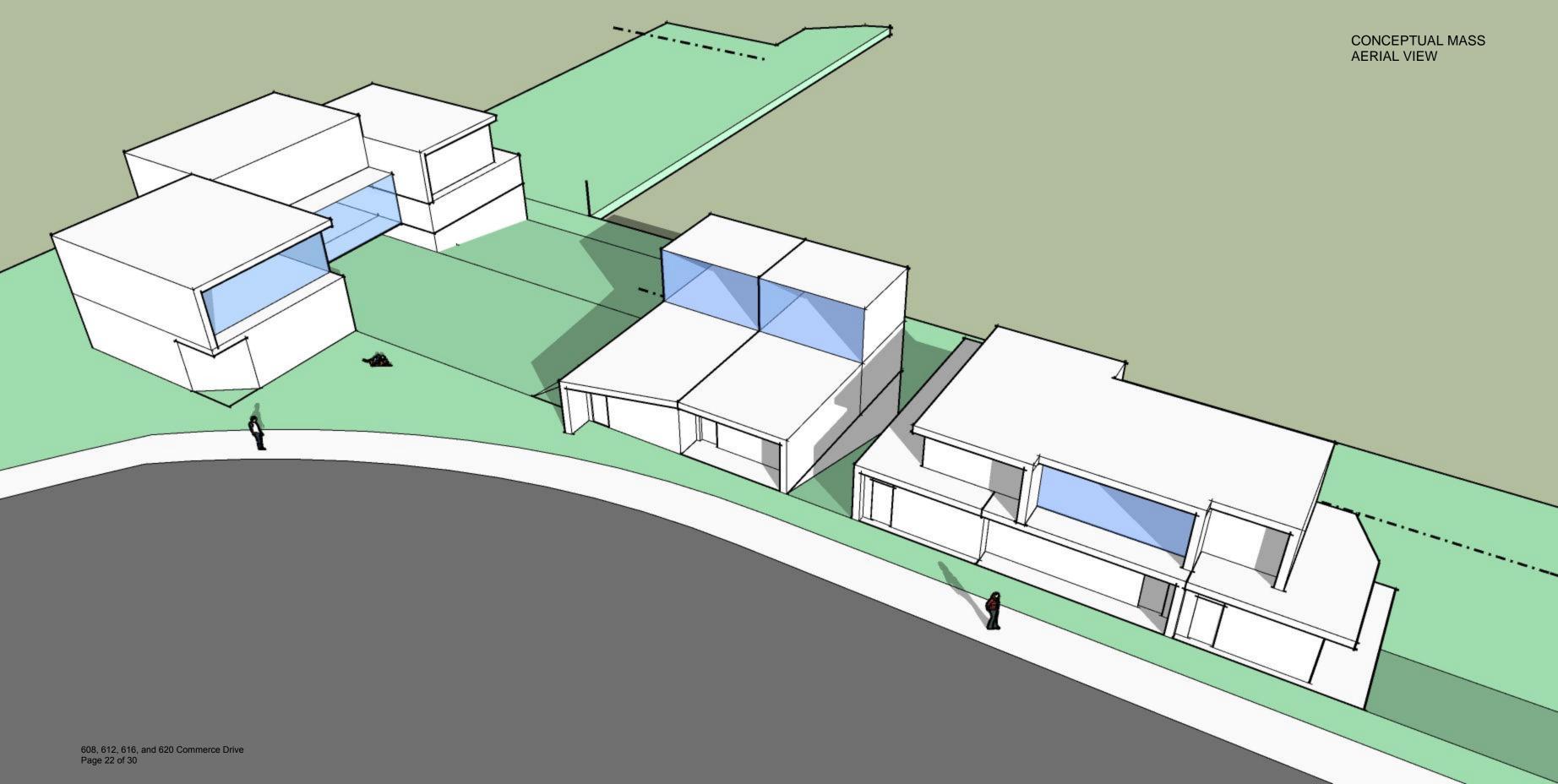
## **UNIT C**

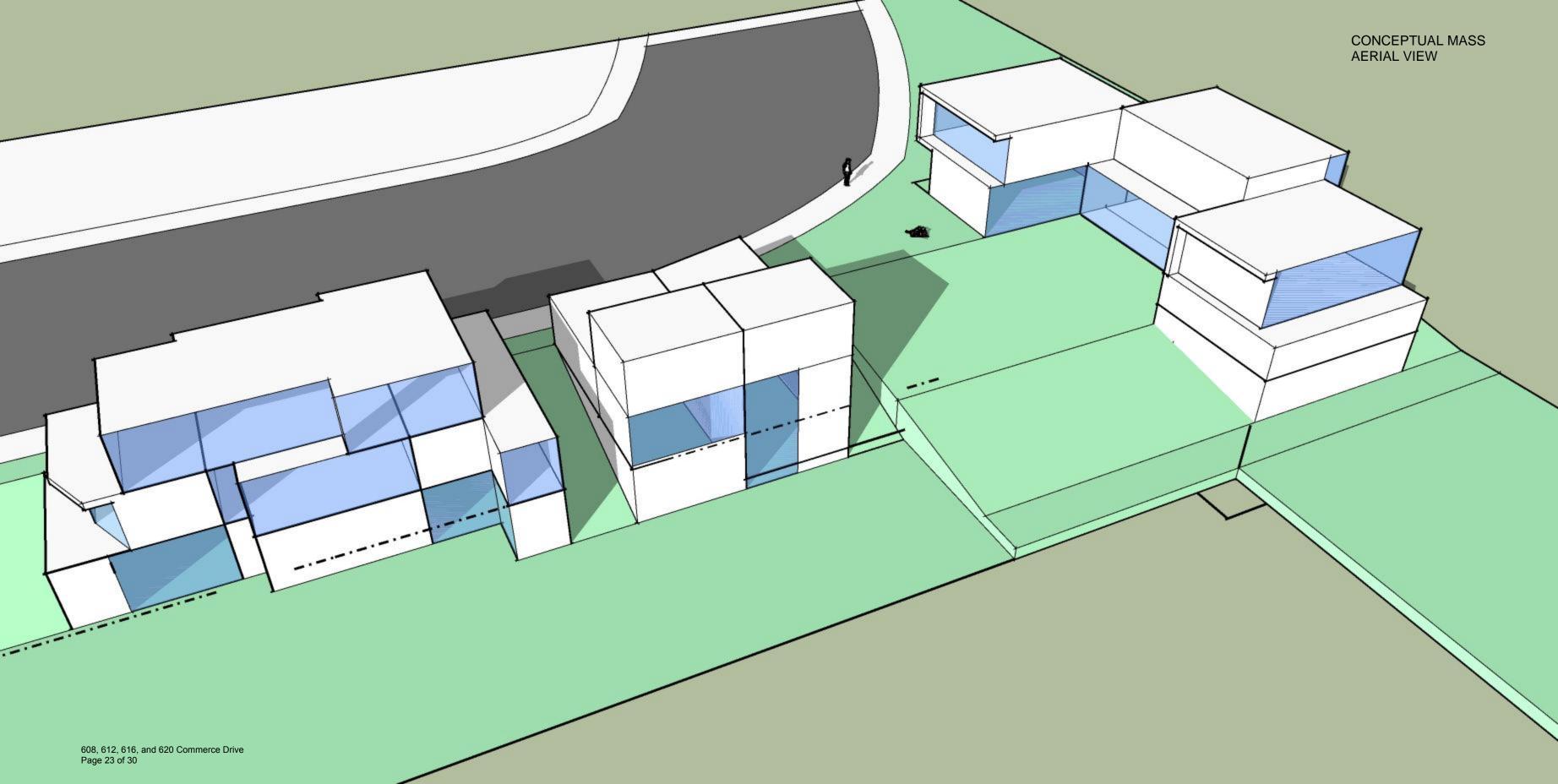
	Zoning Requirement	Proposed	Proposed program	Proposed sft
Lot Size	6652			
Lot Coverage	3459	3246	Builing footprin	1640
			Parking	1408
			Path	198
Lot Disturbance	4324	3534		
Floor Area Max	2661	2660	Above grade	2660
			Basement	1640
Building height	2 stories/ 35' max	2 stories+ba sement		
Rear setback	30'	30'		
Front setback	30'	5'		
Side interior setback	10'/ 5'	5'/5'		

MEETS CURRENT ZONING REQUIREMENTS

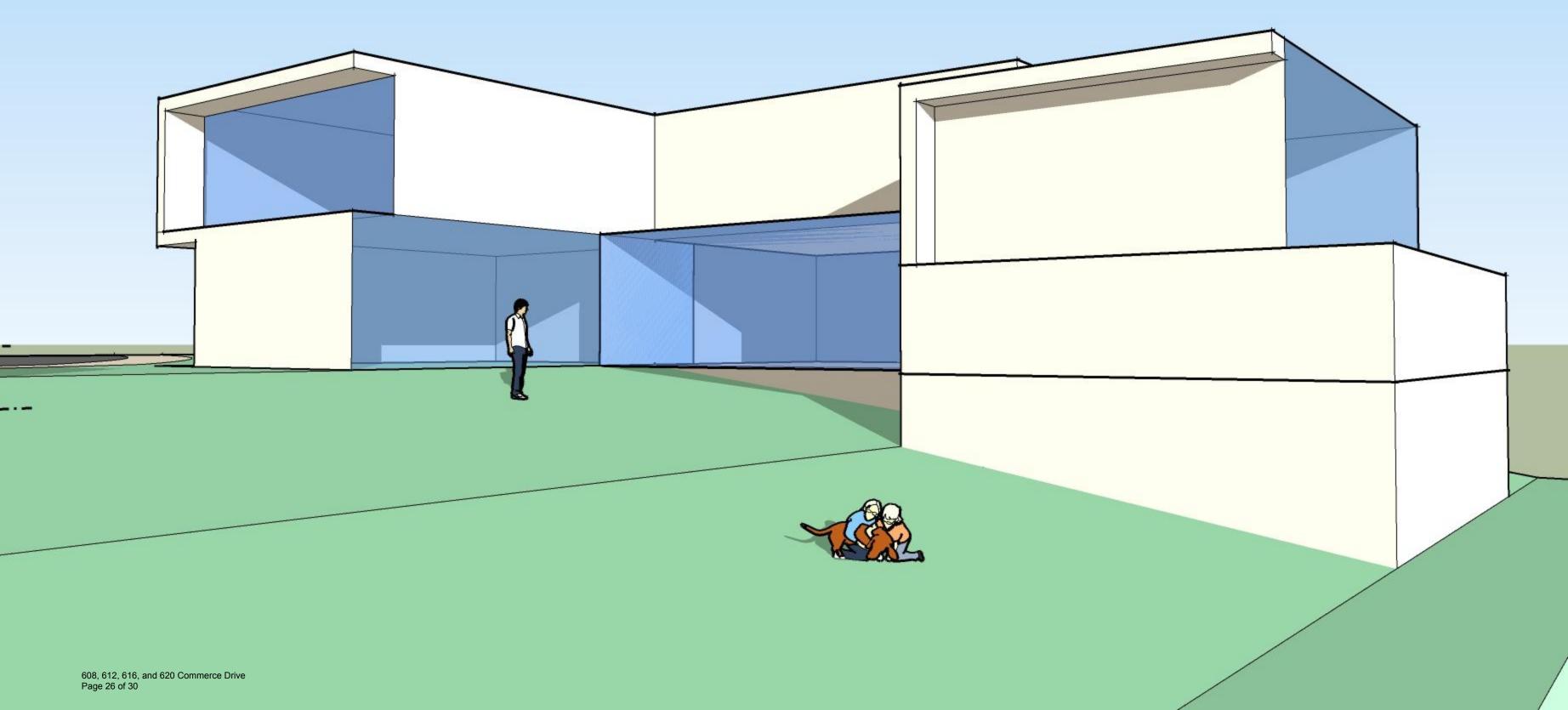
VARIANCE APPLIED

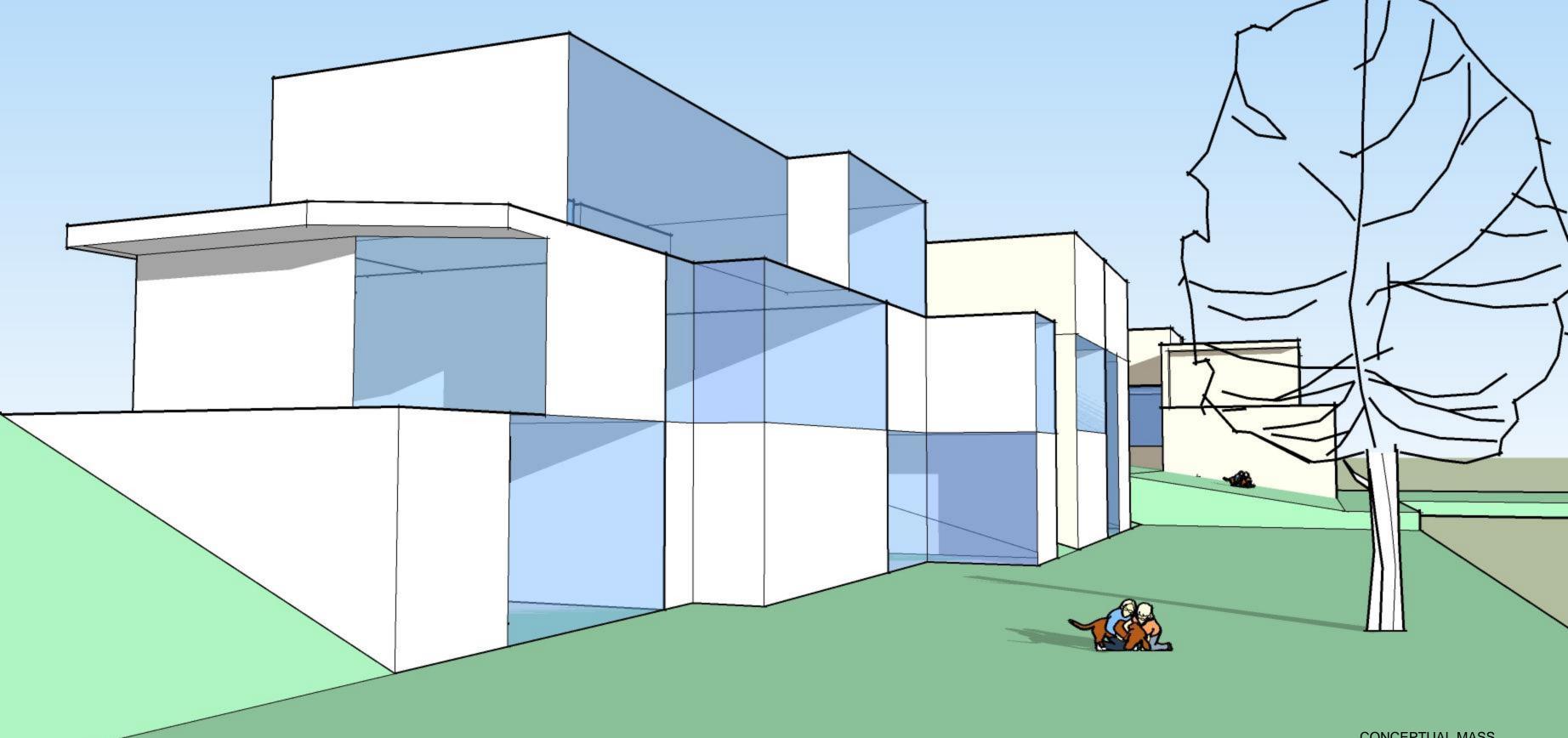
## **Exhibit F: Conceptual Renderings**





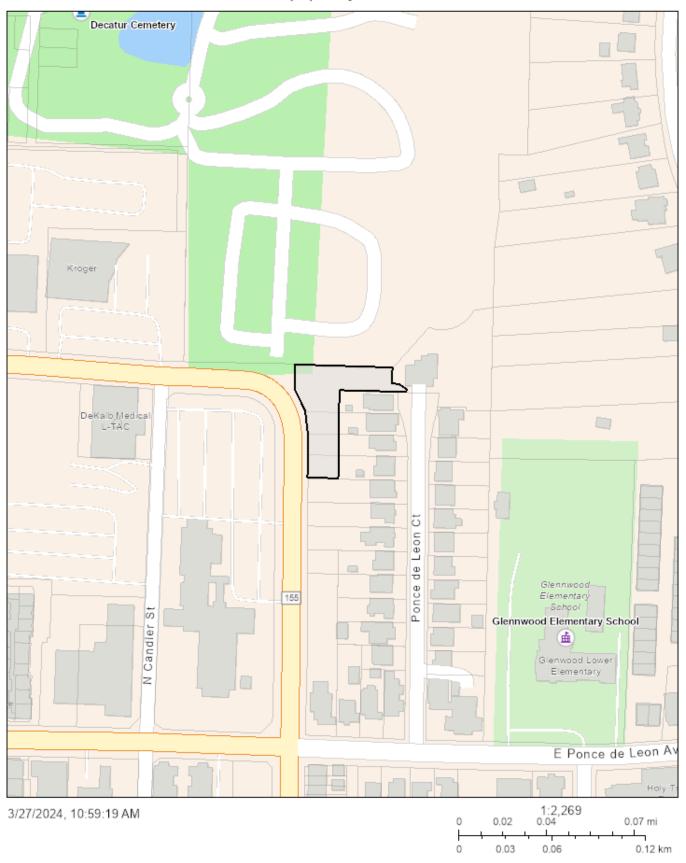






## Exhibit G: Maps

## OneMap | City of Decatur



## OneMap | City of Decatur

