

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 sheet.

1. What is the variance requested? What code requirement do you wish to vary from?
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)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
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.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

.....
I hereby certify that the above and attached statements and documents are true to the best of my knowledge and belief.

Applicant signature  Date 2/1/2024



**608-620 Commerce Dr
Setback Variance Request**

June 10, 2024

Setback Variance Request

We are requesting 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'

We are making this request due to the exceptional shallowness and extraordinary tree canopy conditions resulting in unnecessary hardship created by the UDO.

“The Zoning Board of Appeals shall have the authority to authorize upon application in specific cases a variance from the terms of this UDO...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...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 situations**...”

Criteria For Approval

- 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.

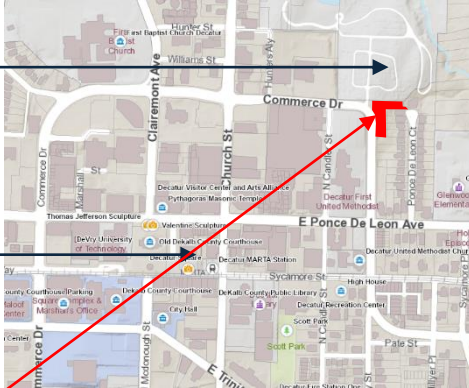
A) The Circumstances are unique to 608-620 Commerce Dr

Hardship 1: Exceptional Shallowness

Decatur cemetery

Decatur square

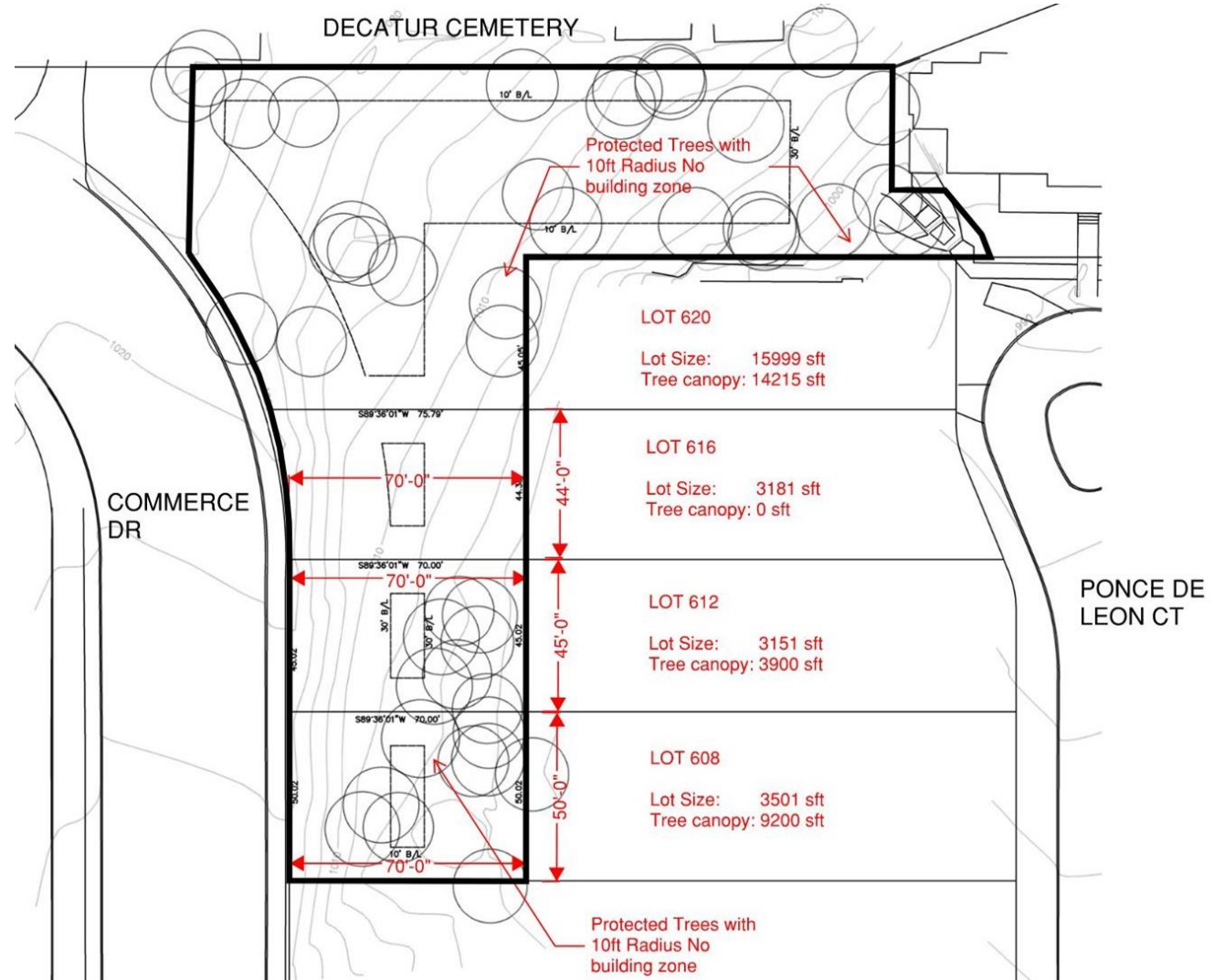
Our site



Site Location

R-60 Lot Requirements

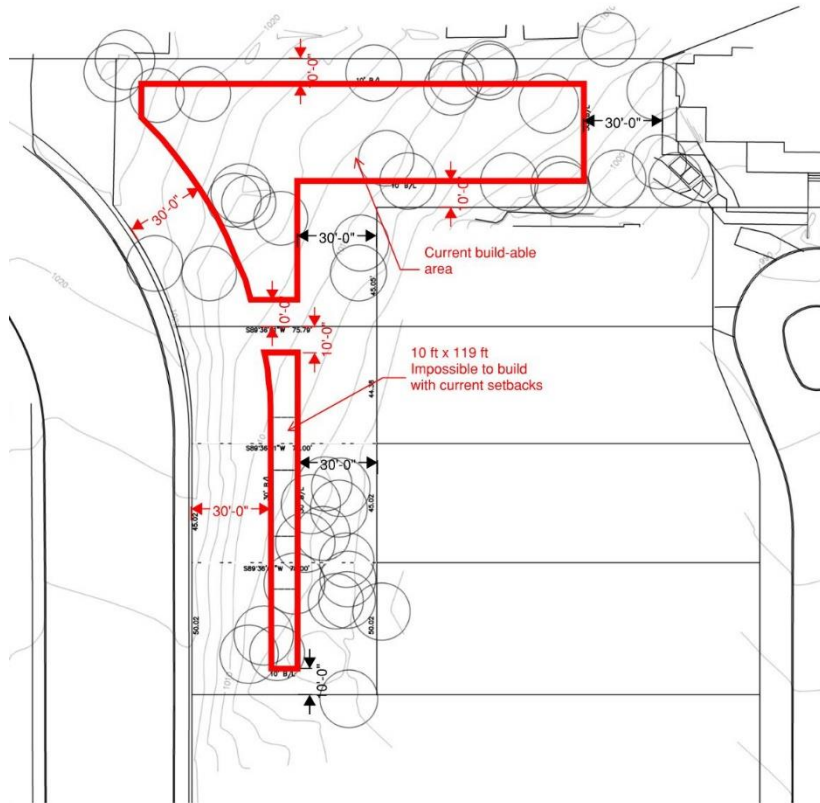
Lot size: 9000 sft MIN
 Width: 60 ft MIN
 Depth: 120 ft MIN



Site Survey

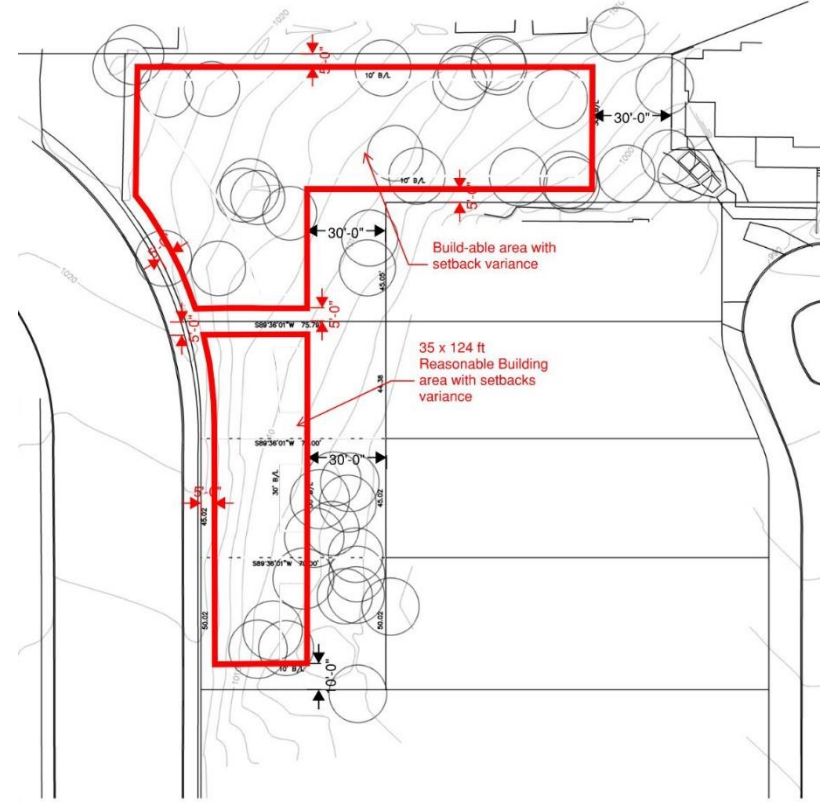
B) The enjoyment & use of the property requires a setback variance

Hardship 1: Exceptional Shallowness



Current Setbacks

Front 30ft
Rear 30ft
Side 10 ft



Proposed Setbacks

Front 5ft
Rear 30ft
Side 5 ft

Current setback requirements leave the lower lot without sufficient building area

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

B) The enjoyment & use of the property requires a setback variance

Hardship 2: Tree Preservation

Upper lot

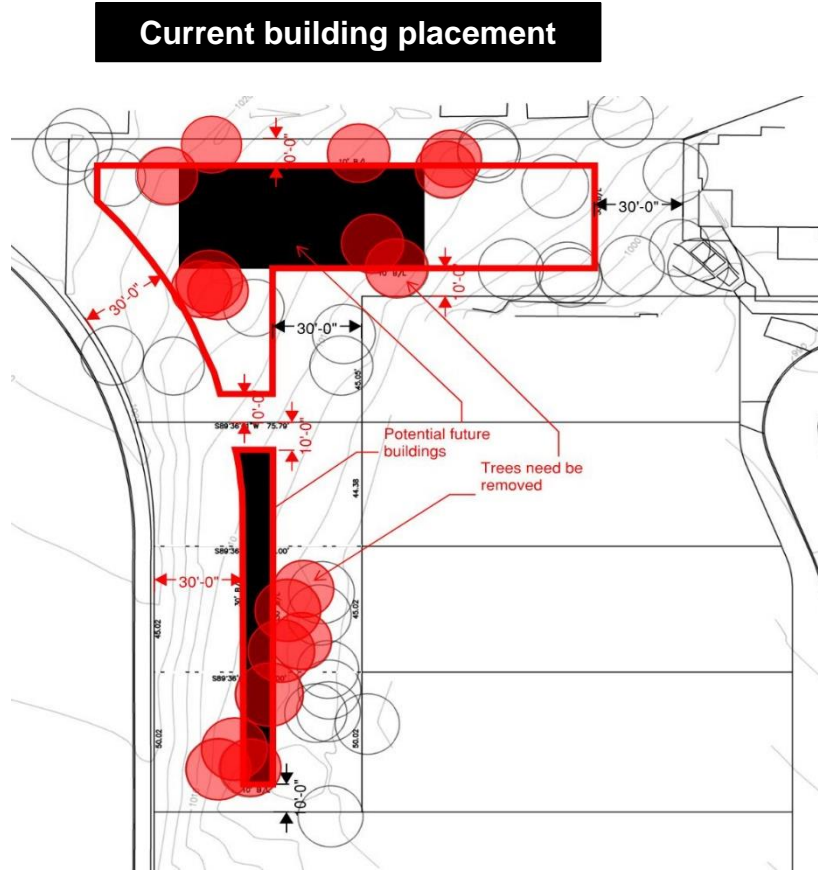
Min tree canopy loss with current setbacks: **29%**

Max code allowed: 25%

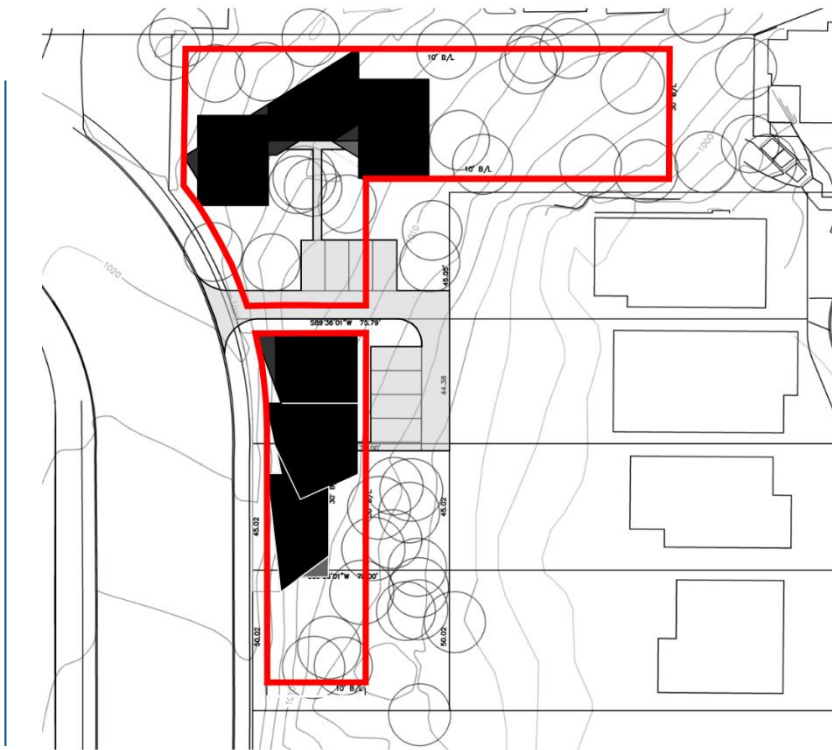
Lower lot

Min tree canopy loss with current setbacks: **81%**

Max code allowed 25%



Proposed Building Placement



Upper lot

Min tree canopy loss with current setbacks: 0%

Max code allowed: 25%

Lower lot

Min tree canopy loss with current setbacks: 0%

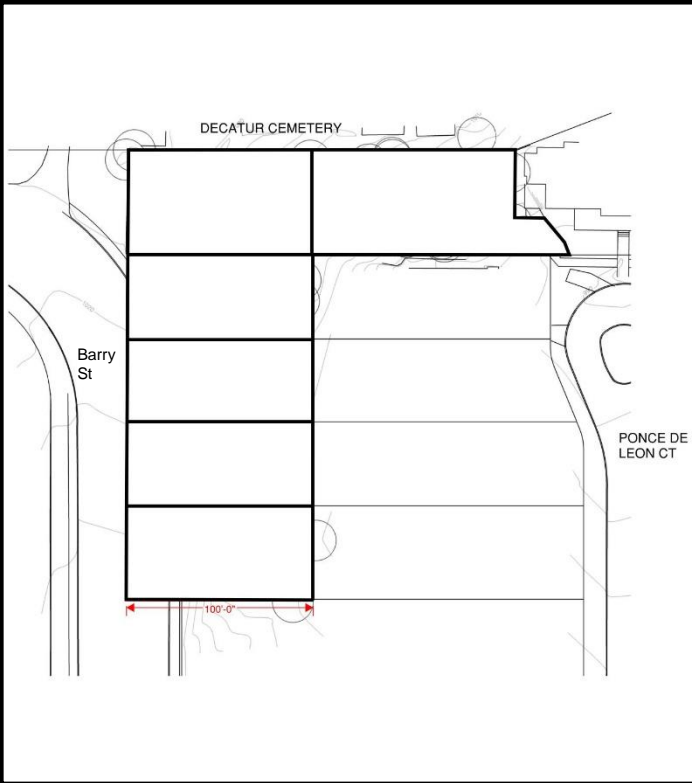
Max code allowed 25%

The current buildable area has many trees that will need to be cut down which will violate the Tree Canopy Conservation Ordinance
A setback variance will allow the flexibility to place the building to reduce tree removal

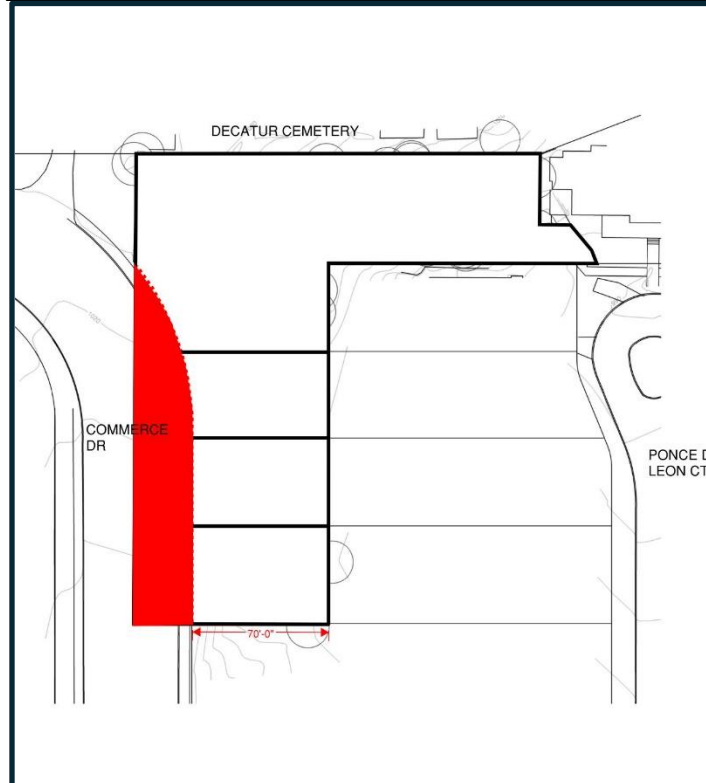
C) The hardship is not the result of an action by the applicant

Site history

1926
LOT OF RECORD



1968
COMMERCE DR EXPANSION



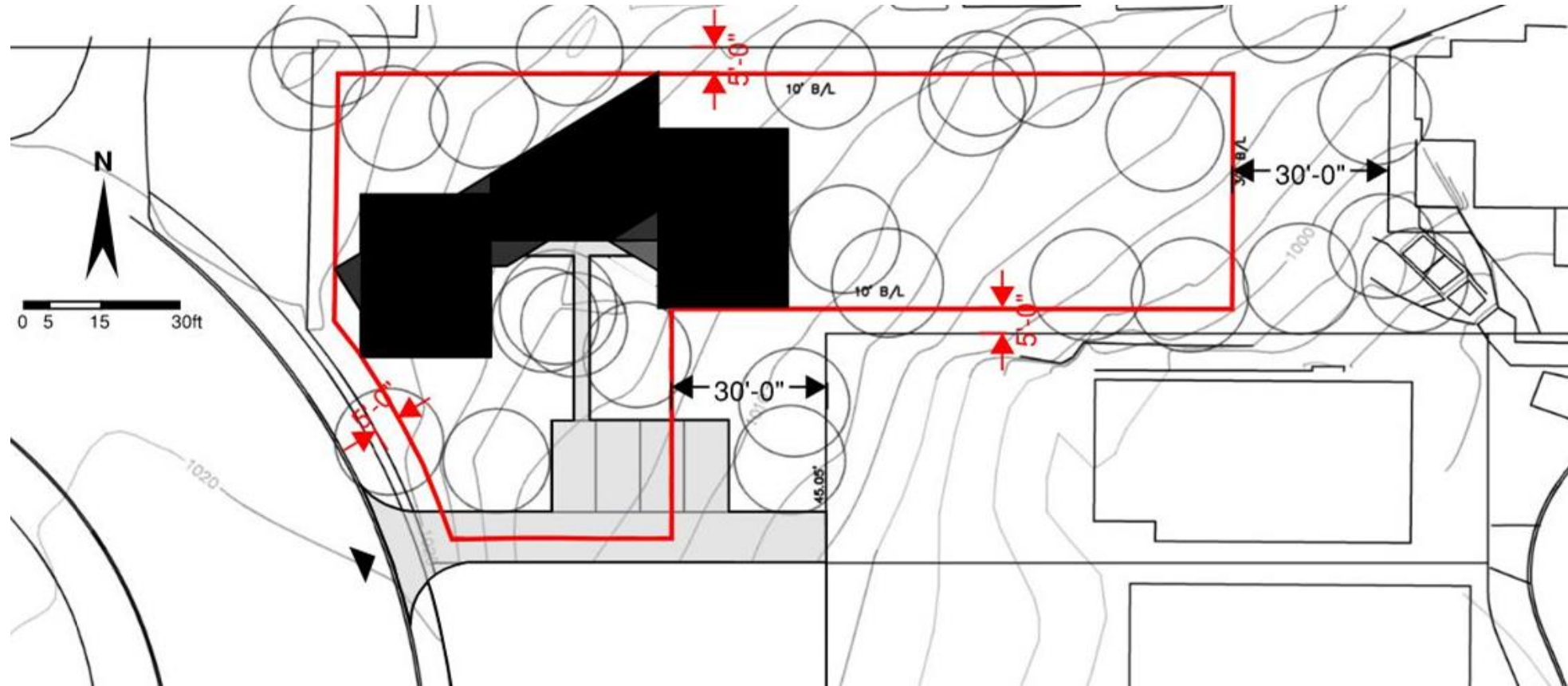
2015 Adoption of
UDO

2022 Tree Canopy
Conservation Ordinance

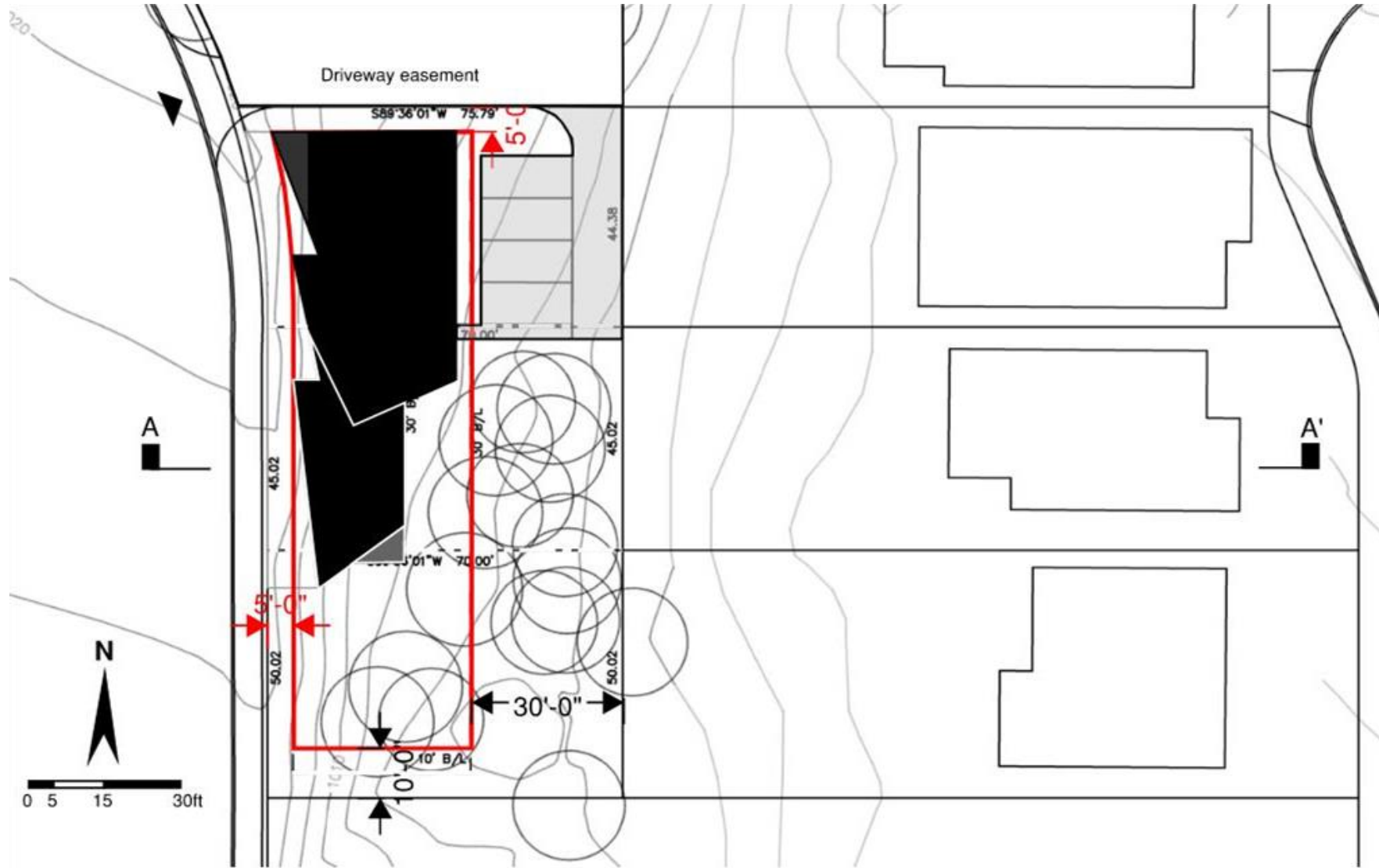
2015 Feb. effective date of current UDO
creates hardship on lower lots

2022 Mar. effective date of Tree Canopy
Conservation Ordinance creates hardship
on upper lot

Upper lot site plan 620 Commerce Dr



Lower lot site plan 608-616 Commerce Dr



E + F) Proposed building complies with Decatur Land Use Plan

R-60 zoning allows up to 4 units per lot. Proposed buildings meet all other R-60 zoning requirements. We are only asking for a building placement/setback variance due to the hardships

620- 4 Plex					616+612+ 608- 4 Plex				
	Zoning Requirement	Proposed	Proposed program	Proposed sft		Zoning Requirement	Proposed	Proposed program	Proposed sft
Lot Size	15999				Lot Size	9833			
Lot Coverage	6400	3979	Building footprint	2400	Lot Coverage	3933	3566	Building footprint	2400
			Parking	1387				Parking	1097
			Path	192				Path	69
Lot Disturbance	8000	3979			Lot Disturbance	4917	4241		
Floor Area Max	6400	6400	Above grade	6400	Floor Area Max	3933	3900	Above grade	3900
			Basement	0				Basement	2400
Building height	2 stories/ 35' max	2 stories			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'/ 10'	5'/10'			Side interior setback	10'/ 10'	5'/10'		

**MEETS R-60
ZONING
REQUIREMENTS**

**VARIANCE
REQUESTED**

D) A setback reduction will improve public safety

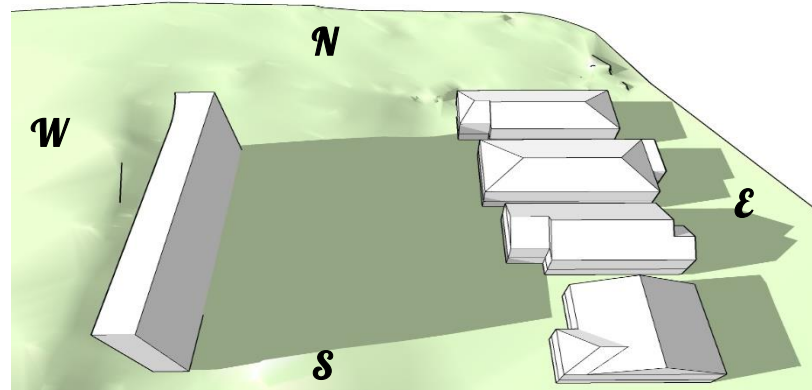
Improved light and air impact to neighbors



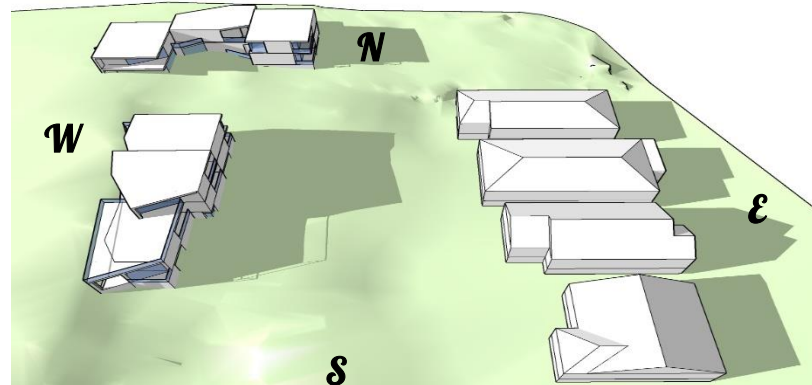
Shadow projection of building with current 30 ft setbacks @ A-A' section



Shadow projection of building with proposed 5ft setbacks @ A-A' section



Shadow simulation of building with current 30 ft setbacks @4pm Apr 9th



Shadow projection of building with proposed 5ft setbacks @4pm Apr 9th

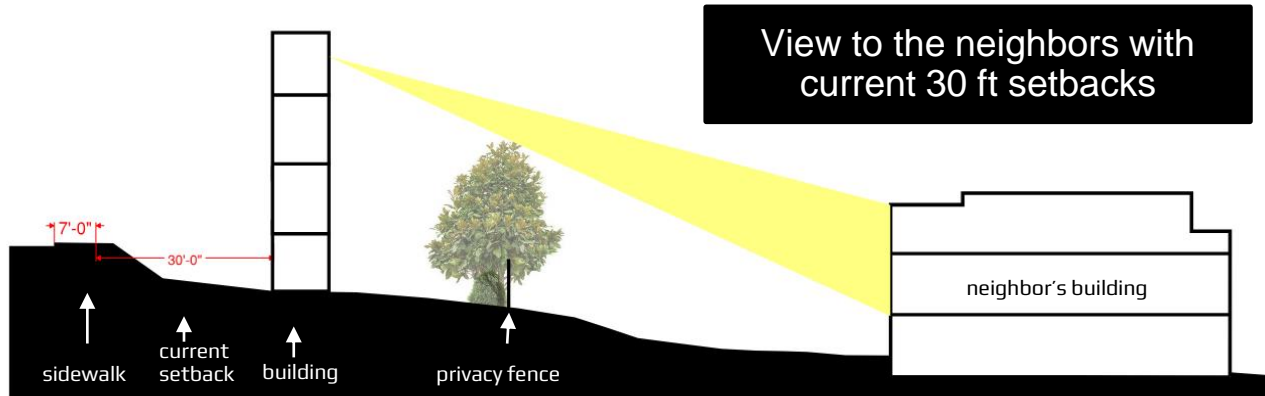
Our site is to the west & north of adjacent neighbors, so only afternoon sunlight could be impacted

Existing tall trees on site have more impact on sunlight than any potential buildings

With the reduced setbacks, the proposed building can be shorter and further from the neighbors, **improving** light and air impact to the neighbors compared with the current allowed setbacks

D) A setback reduction will improve public safety

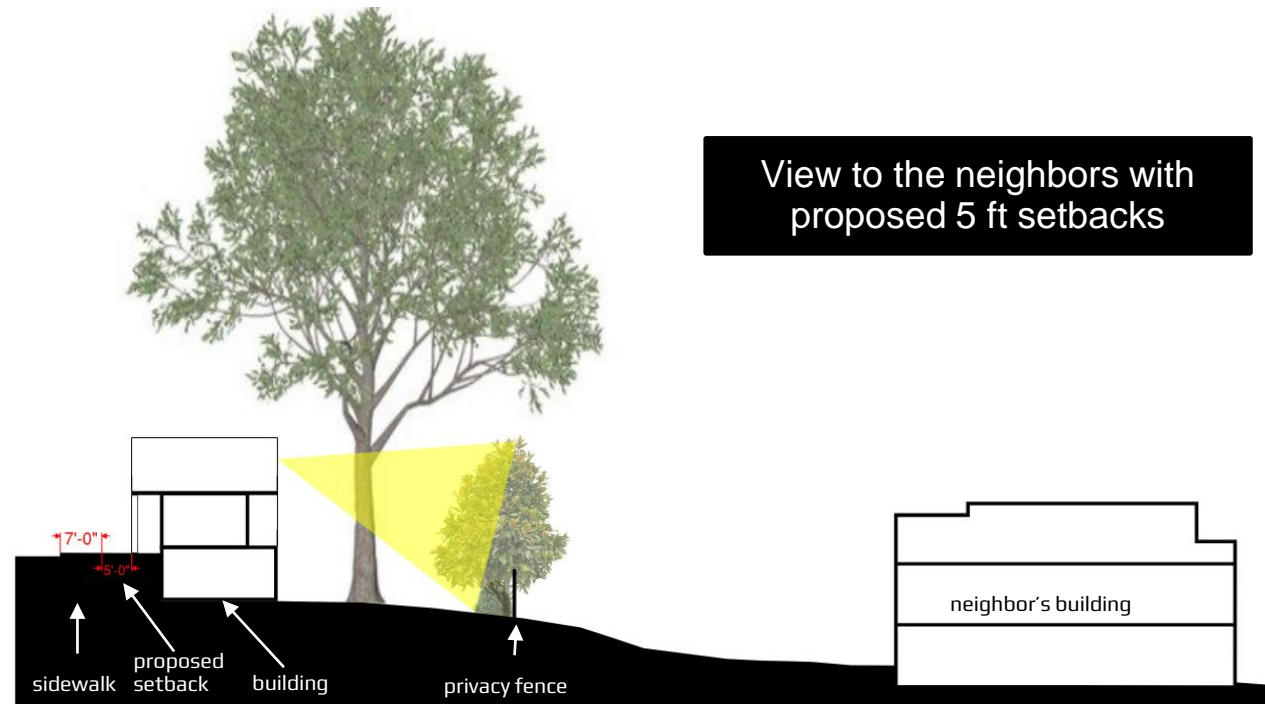
Increased privacy protection to neighbors



A reduced front setback will allow us to place the building further away from the rear neighbor's house

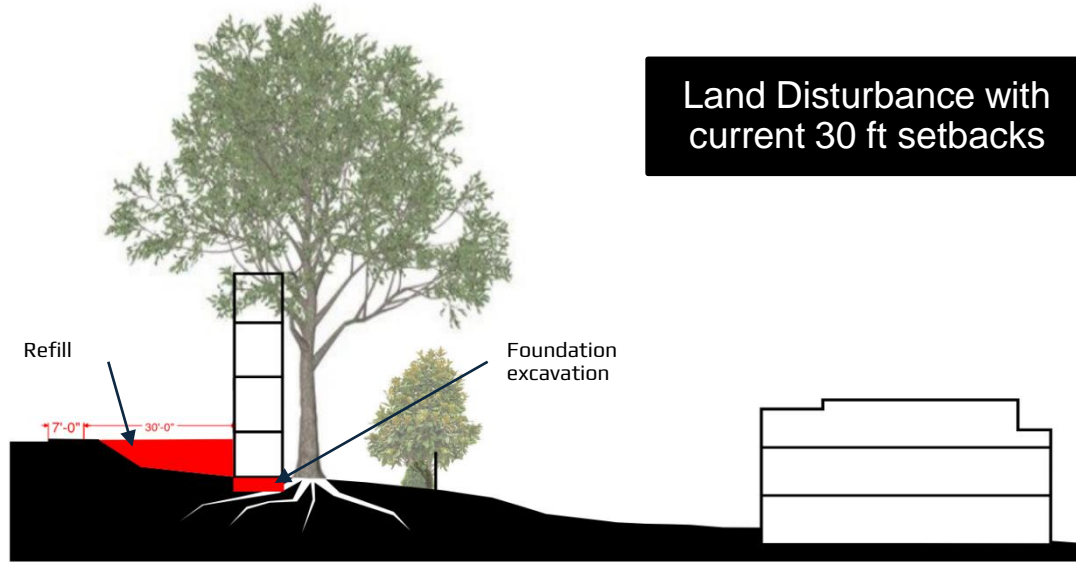
Building placement with current setback will require more tree removal. A reduced front setback allows tree preservation, which also protects neighbor's privacy

A reduced front setback will allow us build a shorter building, preserving neighboring property privacy



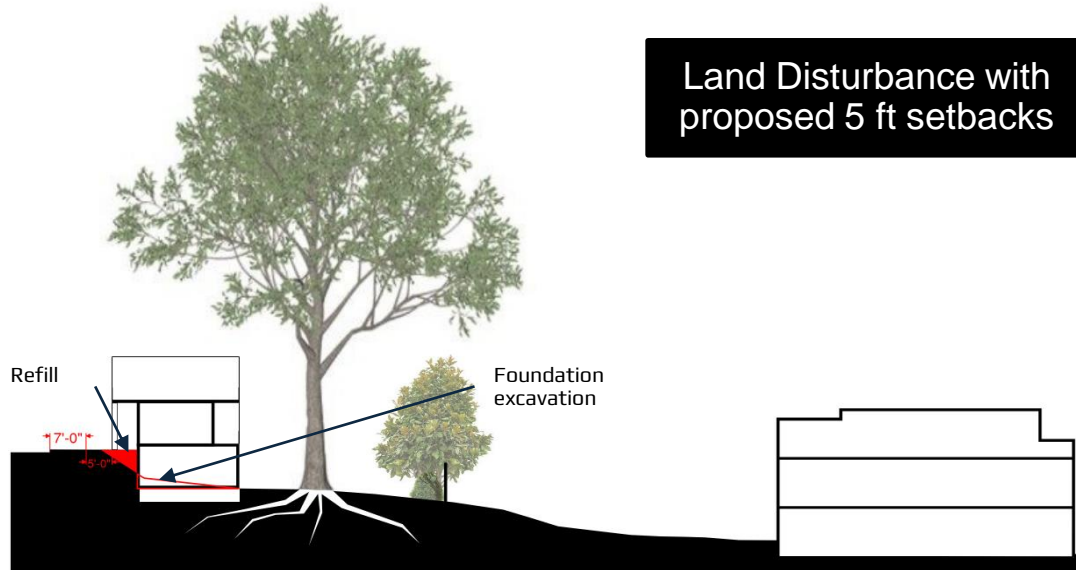
D) A setback reduction will improve public safety

Reduce environmental impact



Building closer to the street will better utilize current site topography, reduce refill and excavation area

Utilizing the existing slope for the building placement reduces the building mass impact to the street and neighbors



No tall retention wall is needed between our site and rear neighbors

Front setback reduction allows the new building to be placed away from the protected trees, minimizing impact to the CRZ

D) A setback reduction will improve public safety

Research & precedent study

Improved Traffic Safety

Buildings placed closer to the street act as visual devices that alert motorists for the need for alertness, acting as a physical and visual barrier and bringing a human scale that enhances walkability of the street.

- Building close to the lot line and having a continuous street wall and gives visual clues to drivers of the pedestrian area
- The presence of building mass creates a visual narrowing of the street prompting drivers to slow down
- Drivers' reactions, both in scale and timing have been found to directly correlate to building proximity to the street indicating shorter setbacks lead to safer driving conditions

Improved Walkability

Walkability is improved by building proximity to the street. The EPA and City of Denver found that relating development to the street by locating new buildings close to the street edge is one of three key success factors to create "Living Streets".

- The presence of attractive streetscapes creates a sense of place, encouraging safer driving behavior and suggesting a residential, pedestrian oriented environment
- Buildings targeted at a human scale creates a more walkable environment encouraging pedestrians. The key ratio of 1:3 to 1:2 ratio of building height to road width as measured from the front of the building can be achieved by building taller and building closer to the street.
- Building proximity to the street increases the number of eyes on the street improving pedestrian safety.

Sources:

- 1) Federal Highway Association DOT, FHWA course on Bicycle and Pedestrian Transportation
- 2) US EPA Smart Growth Implementing Living Streets: Ideas and Opportunities for the City and County of Denver
- 3) Institute of Traffic and Engineering, UCLA
- 4) Institute of Transportation Engineers: Designing Walkable Urban Thoroughfares
- 5) Urban SDK, traffic management and traffic calming software platform research

D) A setback reduction will improve public safety

Traffic safety & walkability



Current commerce street view from north to south



Proposed commerce street view with setback reduction



Current commerce street view from south to north



Proposed commerce street view with setback reduction

Reduction of setback will slow down traffic, increase street and pedestrian safety, promoting walkability

E) The granting of the variance will be in harmony with the Decatur Land Use Plan

Continuous streetscape and urban texture

Reducing the setbacks for 608-620 Commerce Dr will create better harmony with the existing urban texture, ensuring the continuity of the current streetscape.

The granting of a variance to setbacks will better align with the general purpose and intent of the Decatur Land Use Plan.



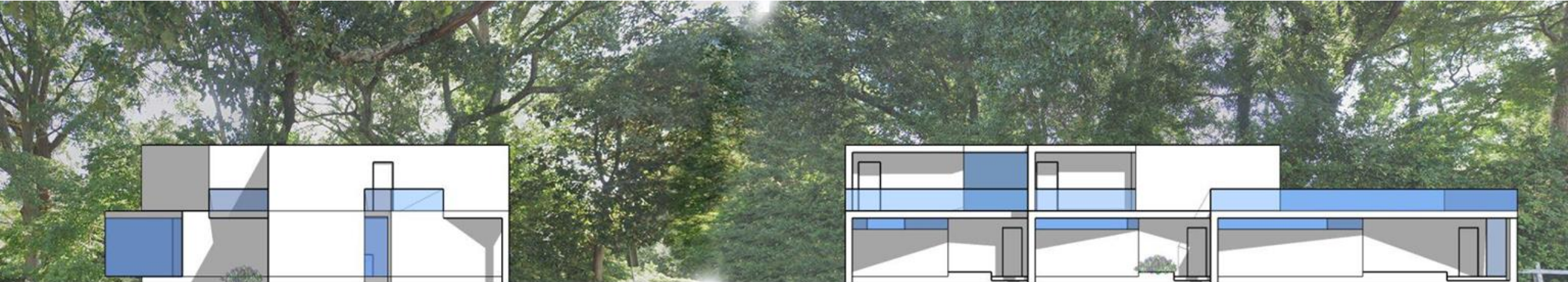
Streetscape on E Ponce De Leon Ave



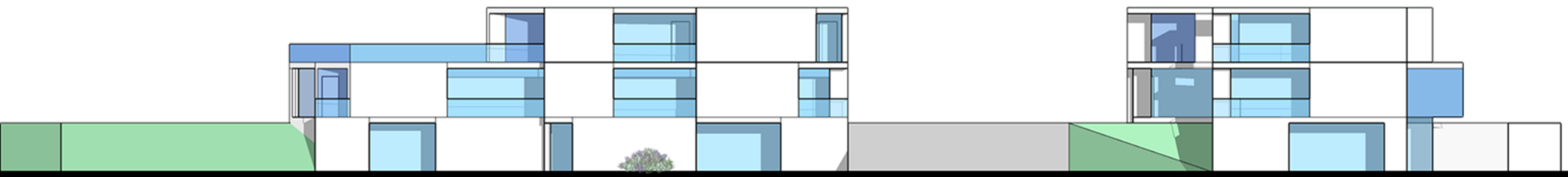
Existing streetscape on Commerce Dr



Elevations



West Elevation



East Elevation



View on Commerce Dr from south to north



View on sidewalks from south to north



View on sidewalk from north to south



View on site from rear yard



View across Commerce Dr from the church parking



View on site from rear yard

Summary

We are requesting a change to the front and side setbacks due to the unique hardship faced by the lots at 608-620 Commerce Dr, Decatur GA 30030.

We have presented evidence to demonstrate:

- 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.

We have engaged with the community to understand and address concerns and have worked to best address those concerns to improve property values, safety, and walkability while minimizing impact to neighboring properties.