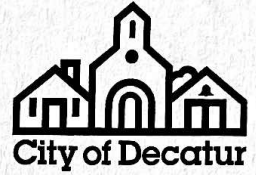


# VARIANCE APPLICATION

## 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 620 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 *Matthew Morton* Date 7/1/2024



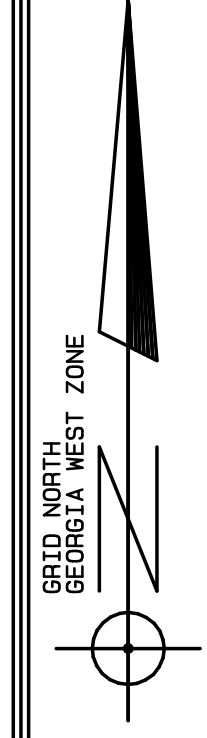
**SURVEYOR'S CERTIFICATE**

This Plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 19-6-67.

*Gilbert E. Guinones*  
**GILBERT E. GUINONES, R.L.S.**  
 GA. R.L.S. Number 2810

**AREA = 25,834 SQ.FT.**  
**0.5931 ACRES**  
**ZONED: R-60**

- UTILITY LEGEND**
- FIRE HYDRANT
  - GAS VALVE
  - LIGHT POLE
  - POWER POLE
  - WATER VALVE
- TREE LEGEND**
- CEDAR
  - CHERRY
  - ELM
  - HEMLOCK
  - HOLY
  - LAUREL
  - MAGNOLIA
  - OAK
  - PINE
  - SWEETGUM
  - PRIVET
  - EVERGREEN
  - HARDWOOD



**GENERAL NOTES**

1. The field data upon which this plat is based has a closure precision of one foot in 17,578 feet and an angular error of 8.0 seconds per angle point and was adjusted using the Compass Rule.
2. This plat has been calculated for closure and is found to be accurate within one foot in 128,586 feet.
3. Field information for this survey was obtained with a GeoMax Zoom 90 Robotic Total Station Theodolite equipped with an Electronic Data Collector, complemented by GPS technology using the eGPS (RTN) Surveying Network.
4. This property lies in a Zone X, which is not a Special Flood Hazard Area per the FLOOD INSURANCE RATE MAP for DeKalb County, Georgia, as delineated in Community Panel Number 13089C0068K bearing an Effective date of August 15, 2019.
5. All Boundary Monuments set are #4 rebars bearing a cap with the Georgia Registration Number (LS 2810) of the Land Surveyor whose Seal appears on this Plat.
6. The source of bearings on this Survey are based on the Georgia State Plane Coordinates System West Zone.
7. Existing utilities shown are based on visual observations by the survey crew only. There may be others not shown hereon. The "BEFORE YOU DIG" utility search company should be contacted prior to any construction done on this site. The Engineer assumes no responsibility for the locations of any underground utilities not visible.
8. This survey was made without the benefit of a current Title Commitment, Easements, and Encumbrances may exist which benefit and/or burden this property.
9. This property lies in Land Lot 246 of DeKalb County, Georgia's 15th Land District and within the City of Decatur.
10. Based on the best available information this property is zoned R-60 (SINGLE FAMILY RESIDENTIAL DISTRICT) and is subject to the following Development Standards:  
 Minimum Lot Area: 7,500 Square Feet  
 Minimum Lot Width: 60 Feet  
 Minimum Lot Depth: 120 Feet  
 Maximum Height:  
 Principal Building: 2 stories 35 Feet  
 1 story Accessory: 16 Feet  
 2 story Accessory: 25 Feet  
 Building Setbacks:  
 Front Yard: 30 feet  
 Side Yard: 10 Feet  
 Rear Yard: 30 Feet  
 Note: The complete City of Decatur Zoning Ordinance can be found online at [www.municode.com](http://www.municode.com)
11. Property References:  
 Deed Book 19330, Page 228  
 Plat Book 8, Page 93  
 Plat Book 13, Page 125
12. A Topographic Survey's major purpose is the determination (relief) of the surface of the earth (ground) and the location of natural and artificial objects thereon.
13. Existing Topographic information from a field survey dated January 20, 2024.
14. This Topographic Survey complies with the United States National Map Accuracy Standards. Vertical accuracy, as applied to contour maps on all publication scales, shall be such that not more than 10 percent of the elevations tested shall be in error by more than one-half the contour interval.

**AREA SUMMARY**

608 Commerce Drive	3,501 Sq.Ft.
612 Commerce Drive	3,151 Sq.Ft.
616 Commerce Drive	3,181 Sq.Ft.
620 Commerce Drive	15,999 Sq.Ft.

**CURVE TABLE**

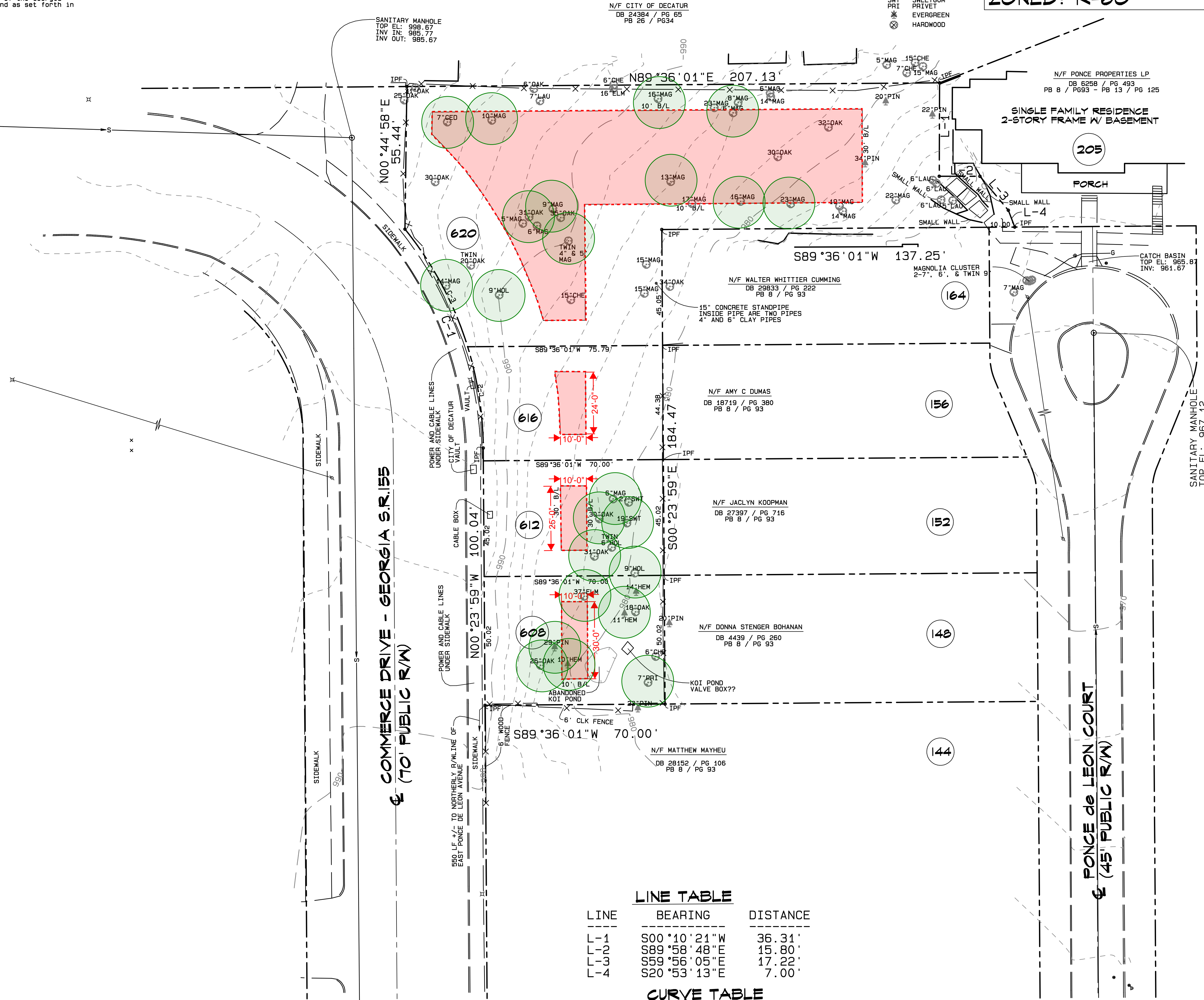
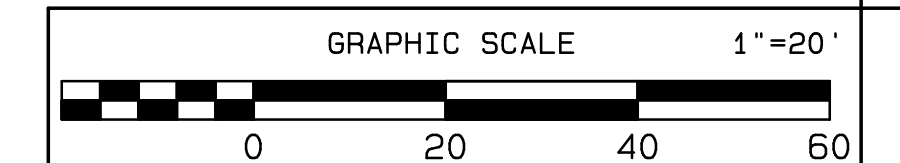
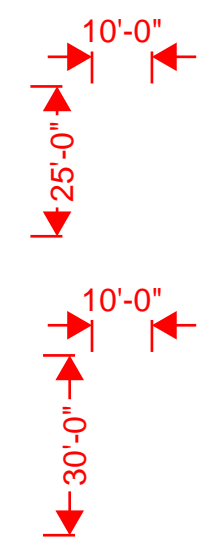
CURVE	RADIUS	LENGTH	CHORD BEARING AND DISTANCE
C-2	136.75'	39.95'	N08°46'04"W 39.80'
C-3	136.75'	52.12'	N28°03'20"W 51.81'

**LINE TABLE**

LINE	BEARING	DISTANCE
L-1	S00°10'21"W	36.31'
L-2	S89°58'48"E	15.80'
L-3	S59°56'05"E	17.22'
L-4	S20°53'13"E	7.00'

**CURVE TABLE**

CURVE	RADIUS	LENGTH	CHORD BEARING AND DISTANCE
C-1	136.75'	92.07'	N19°41'15"W 90.34'



**REGISTERED PROFESSIONAL LAND SURVEYOR**  
**GILBERT E. GUINONES**  
 GA. R.L.S. # 2810

**BOUNDARY, TOPOGRAPHIC, AND TREE SURVEY**

**MATTHEW MORTON AND SHINAN GIU**  
 1056 Standard Drive N.E.  
 Brookhaven, Georgia 30319  
 (508) 314-2665  
 E-Mail: [matthew\\_adam\\_morton@gmail.com](mailto:matthew_adam_morton@gmail.com)

**CONSULTING CIVIL AND LAND SURVEYOR**  
 1093 Hannaford Lane  
 Johns Creek, Georgia 30097  
 (678) 775-9489  
 E-Mail: [gilbertge@atcshyaho.com](mailto:gilbertge@atcshyaho.com)

DATE	REVISIONS	DESCRIPTION	DATE
01-21-2024	1	CLIENT COMMENTS	1-28-24
	2	ADDED TREES	1-28-24
	3	REVISIONS / FIELD CHECK	2-04-24
	4	CLIENT COMMENTS	2-08-24
	5	CLIENT COMMENTS	2-19-24

SHEET 1 OF 1  
 DRAWING NO. 23-073-S-1  
 DEKALB COUNTY, GA.



**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.

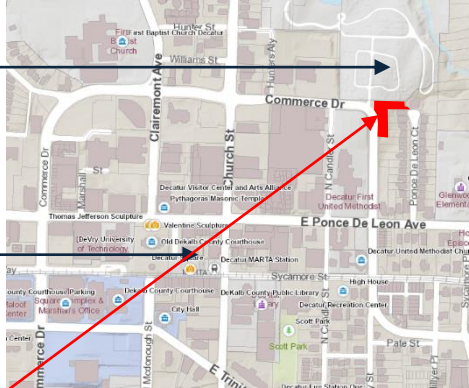
# A) The Circumstances are unique to 608-620 Commerce Dr

## Hardship 1: Exceptional Shallowness

Decatur cemetery

Decatur square

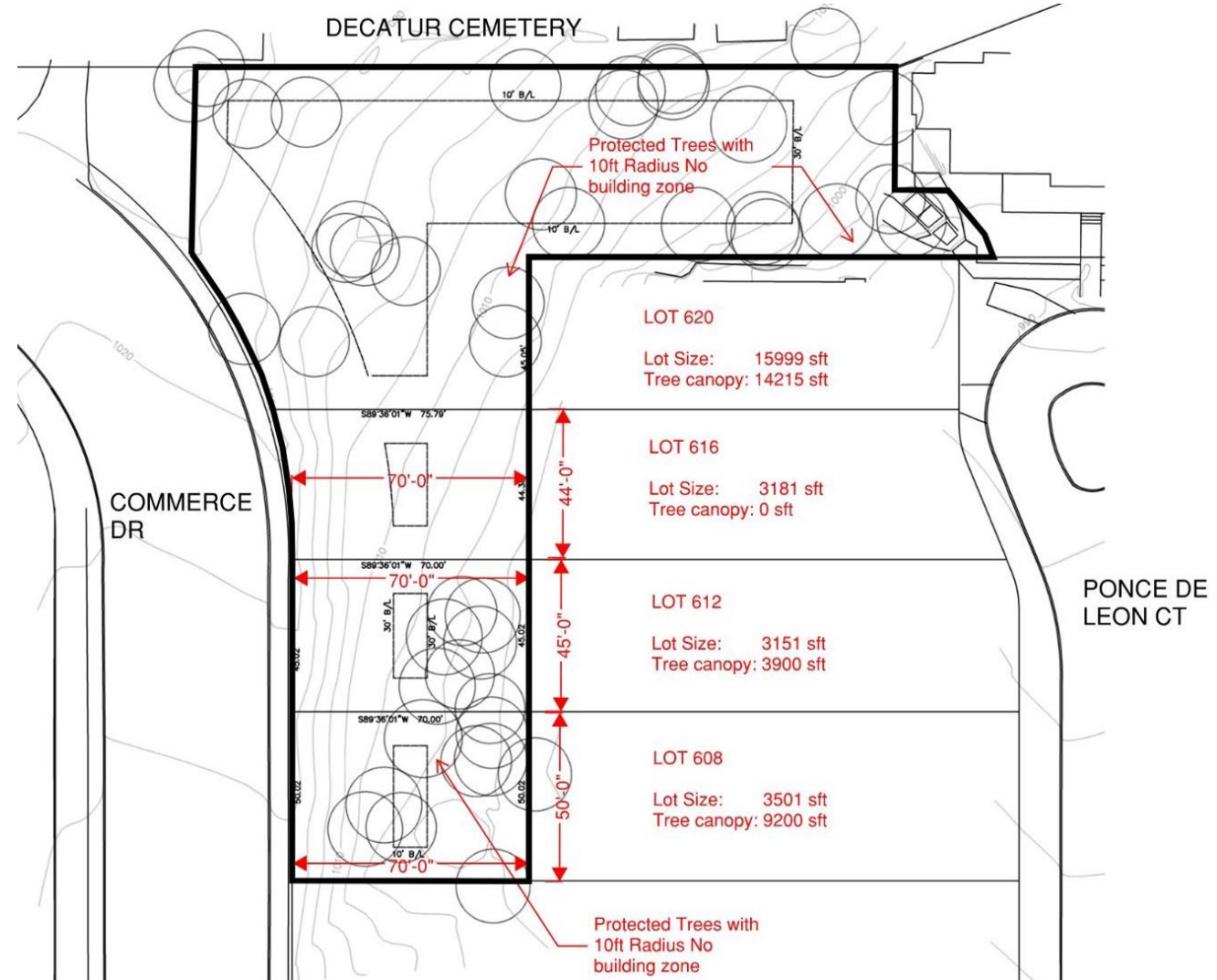
Our site



Site Location

### R-60 Lot Requirements

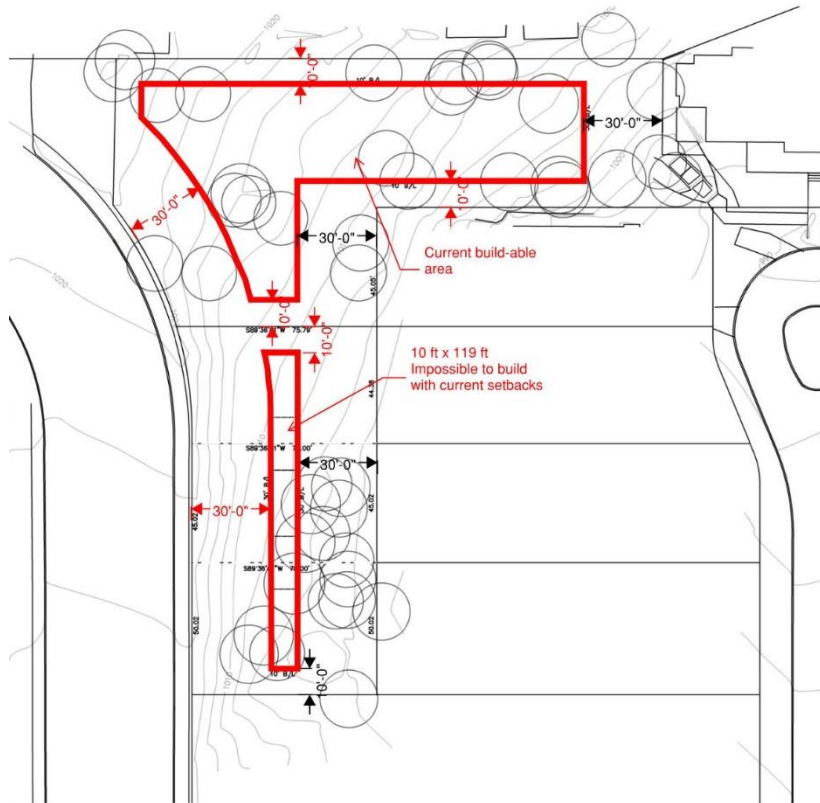
Lot size: 9000 sft MIN  
 Width: 60 ft MIN  
 Depth: 120 ft MIN



Site Survey

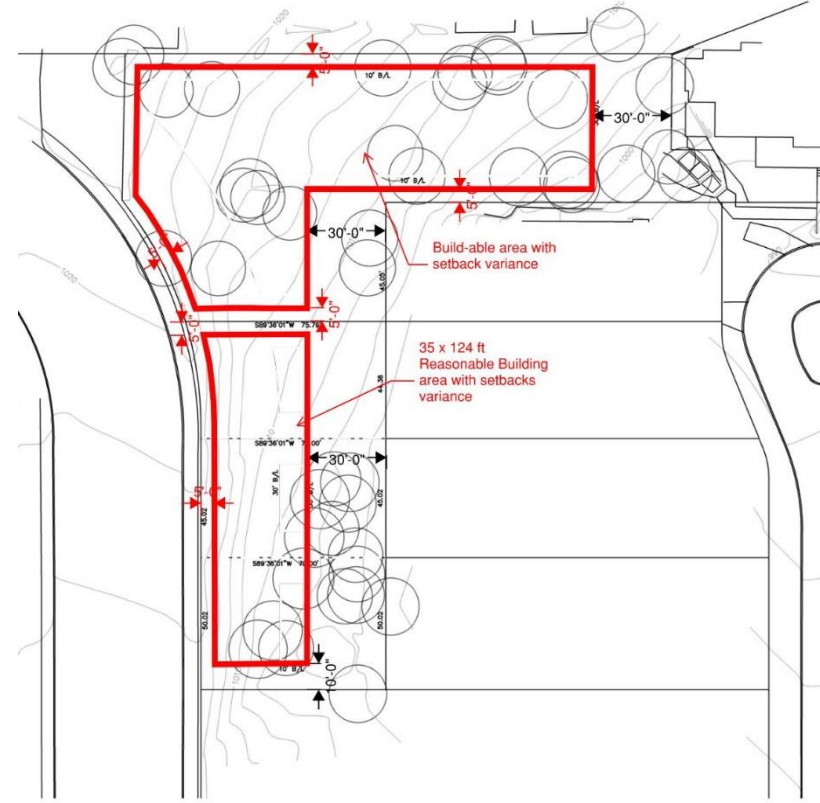
# B) The enjoyment & use of the property requires a setback variance

## 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

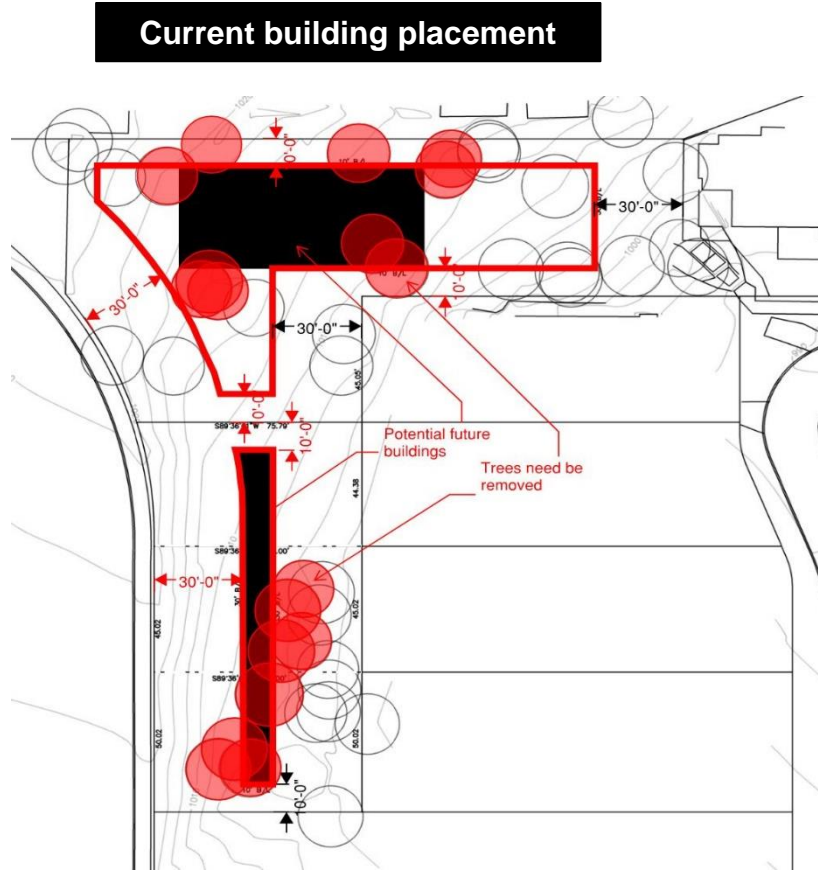
Min tree canopy loss with current setbacks: **29%**

Max code allowed: 25%

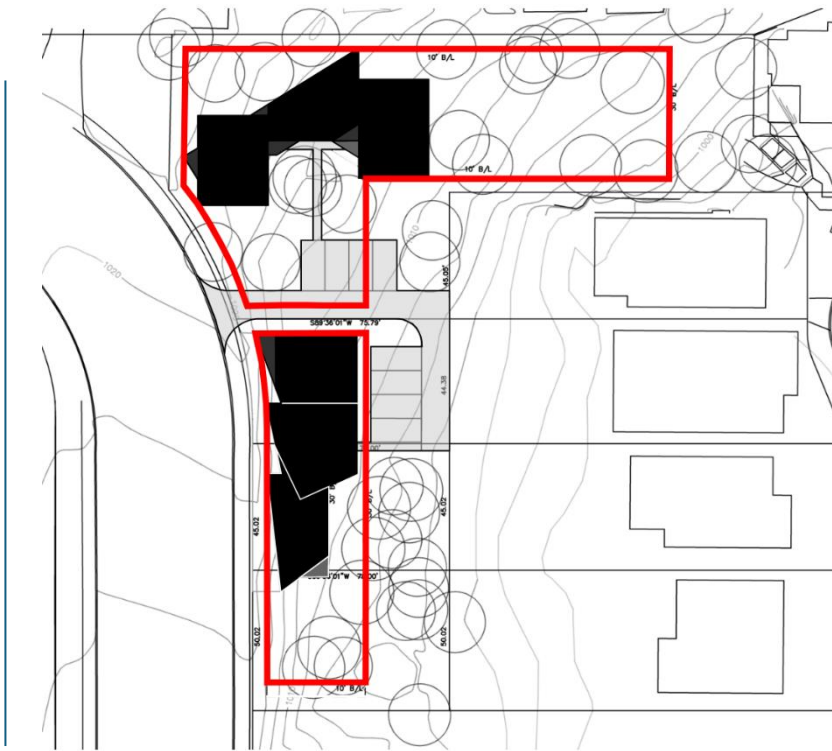
### Lower lot

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%

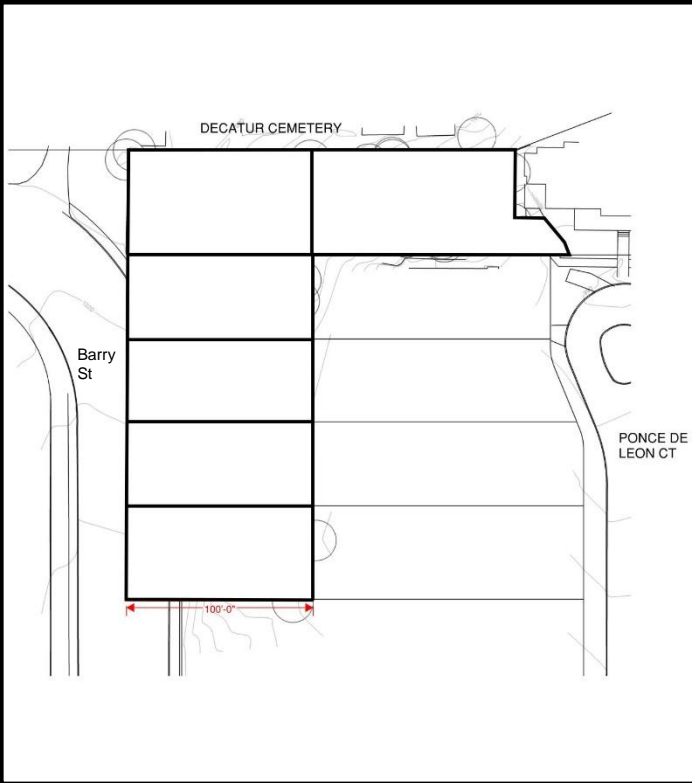
The current buildable area has many trees that will need to be cut down which will violate the Tree Canopy Conservation Ordinance  
A setback variance will allow the flexibility to place the building to reduce tree removal



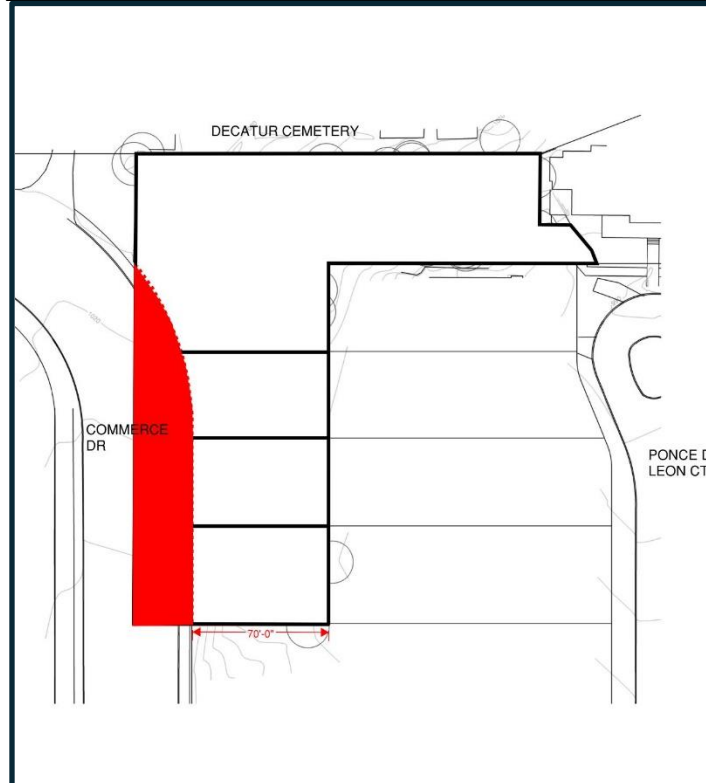
# C) The hardship is not the result of an action by the applicant

## Site history

1926  
LOT OF RECORD



1968  
COMMERCE DR EXPANSION

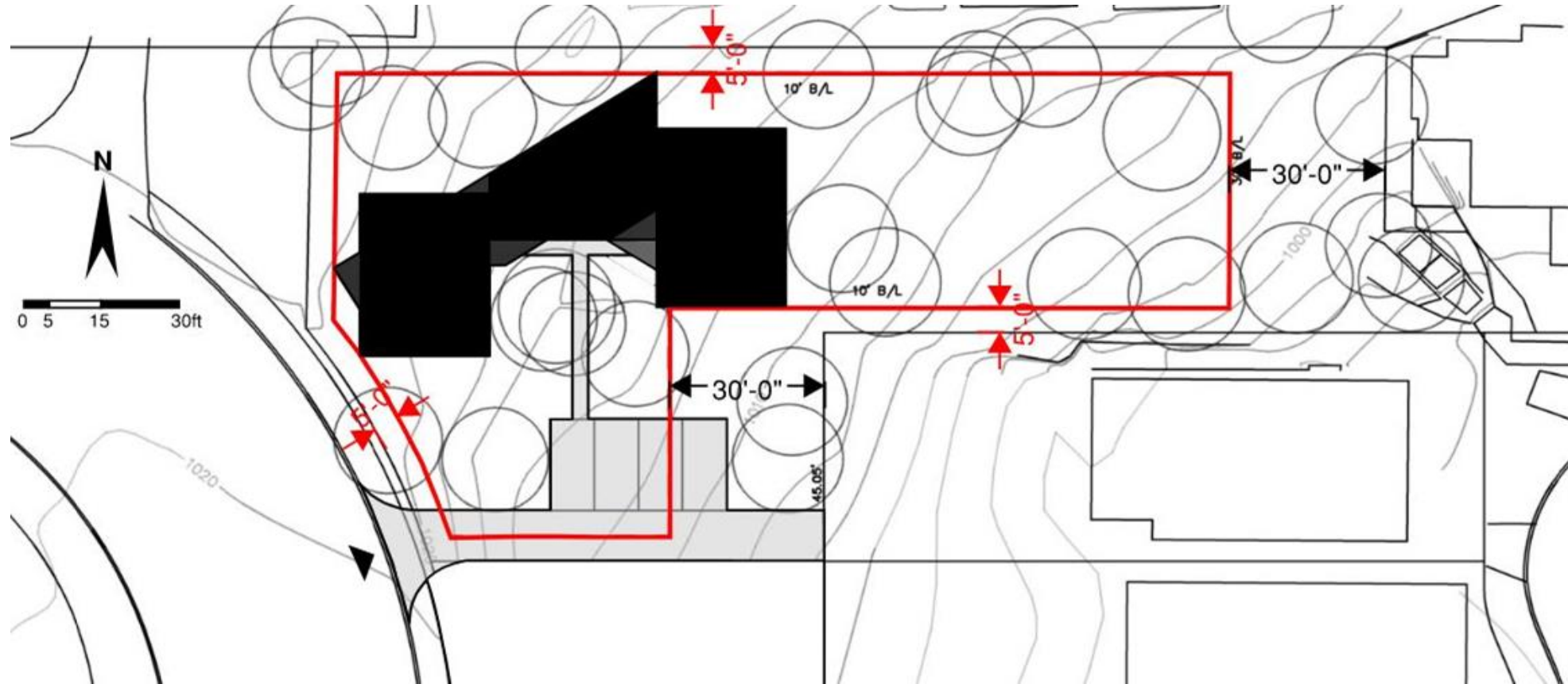


2015 Adoption of  
UDO

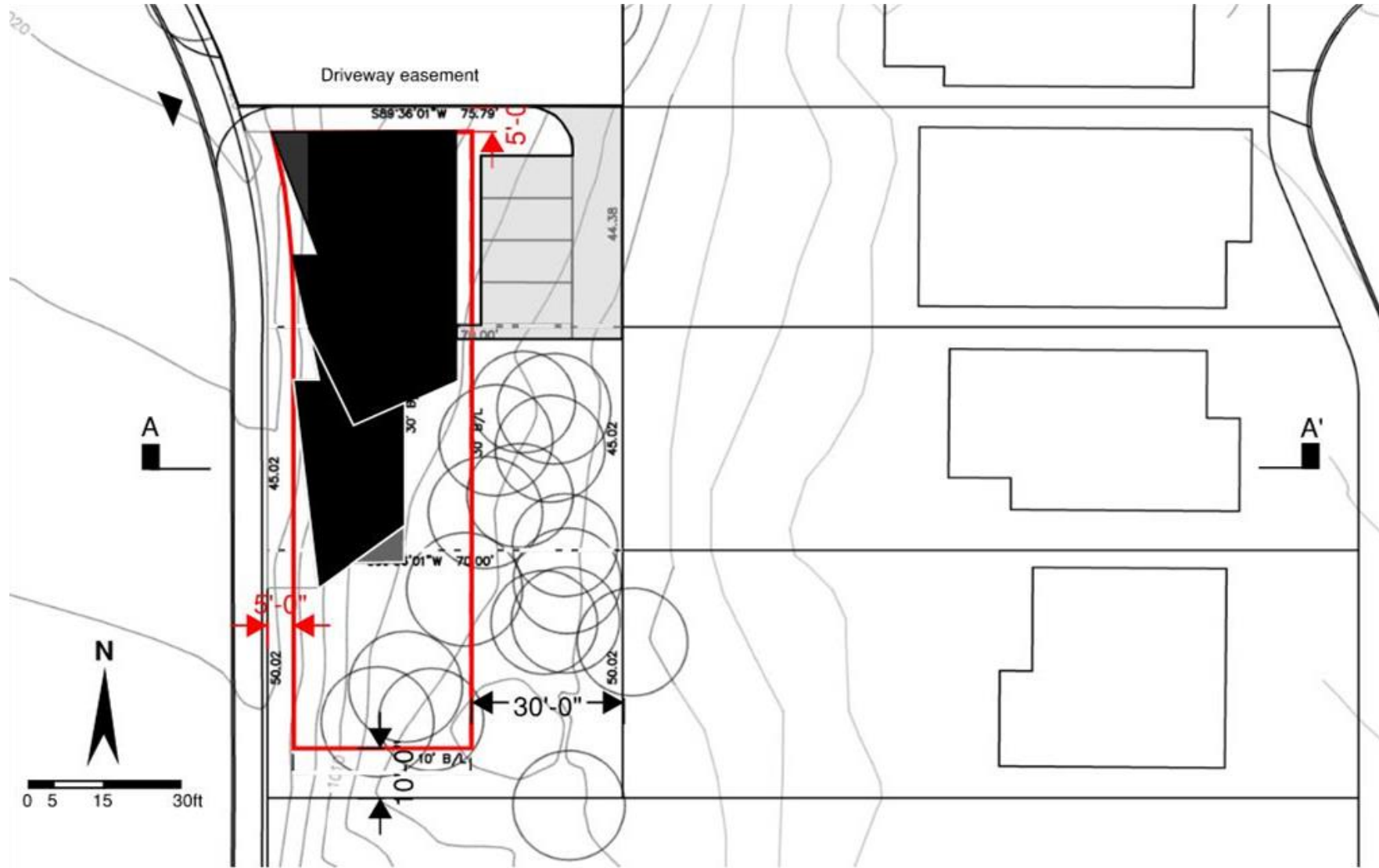
2015 Feb. effective date of current UDO  
creates hardship on lower lots

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

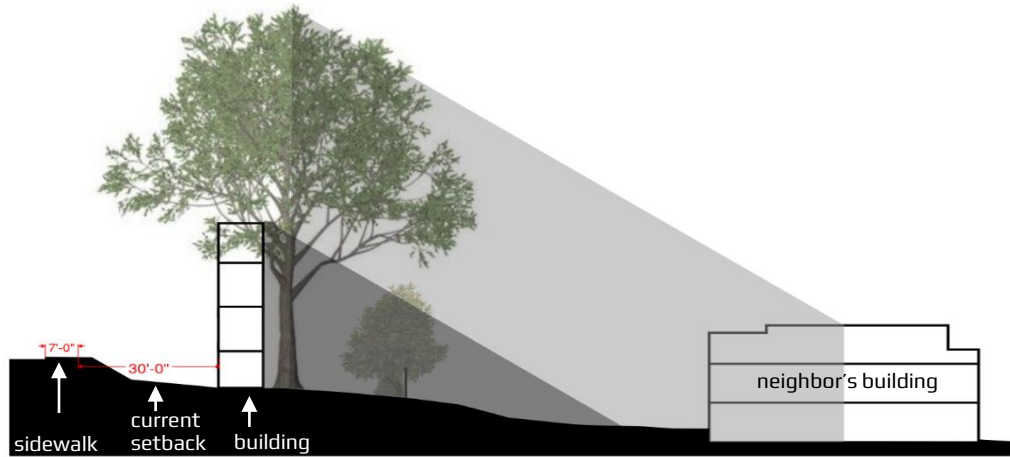
<b>620- 4 Plex</b>					<b>616+612+ 608- 4 Plex</b>				
	Zoning Requirement	Proposed	Proposed program	Proposed sft		Zoning Requirement	Proposed	Proposed program	Proposed sft
<b>Lot Size</b>	15999				<b>Lot Size</b>	9833			
<b>Lot Coverage</b>	6400	3979	Building footprint	2400	<b>Lot Coverage</b>	3933	3566	Building footprint	2400
			Parking	1387				Parking	1097
			Path	192				Path	69
<b>Lot Disturbance</b>	8000	3979			<b>Lot Disturbance</b>	4917	4241		
<b>Floor Area Max</b>	6400	6400	Above grade	6400	<b>Floor Area Max</b>	3933	3900	Above grade	3900
			Basement	0				Basement	2400
<b>Building height</b>	2 stories/ 35' max	2 stories			<b>Building height</b>	2 stories/ 35' max	2 stories + basement		
<b>Rear setback</b>	30'	30'			<b>Rear setback</b>	30'	30'		
<b>Front setback</b>	30'	5'			<b>Front setback</b>	30'	5'		
<b>Side interior setback</b>	10'/ 10'	5'/10'			<b>Side interior setback</b>	10'/ 10'	5'/10'		

**MEETS R-60  
ZONING  
REQUIREMENTS**

**VARIANCE  
REQUESTED**

# D) A setback reduction will improve public safety

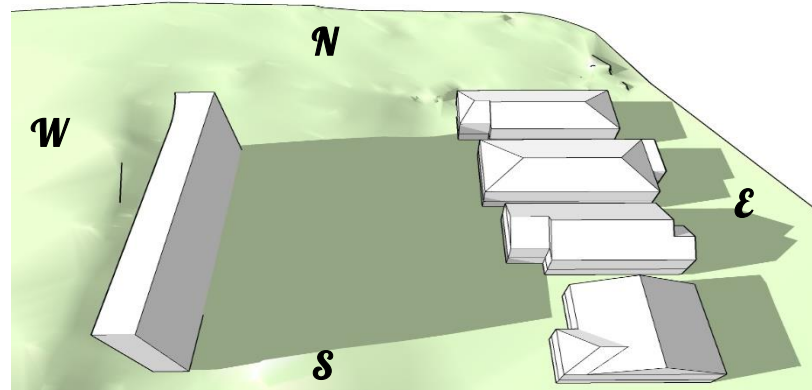
Improved light and air impact to neighbors



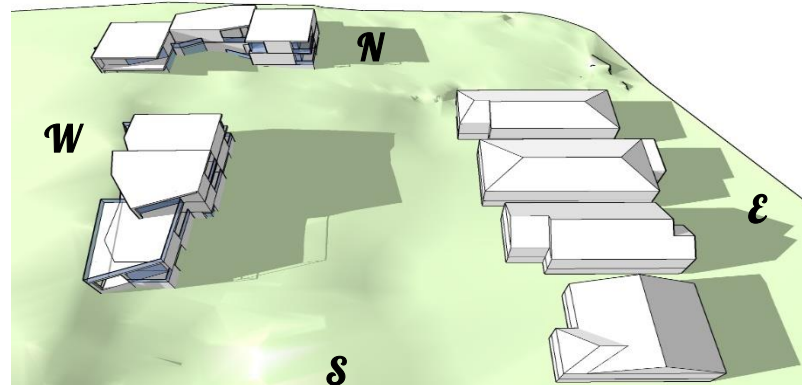
Shadow projection of building with current 30 ft setbacks @ A-A' section



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

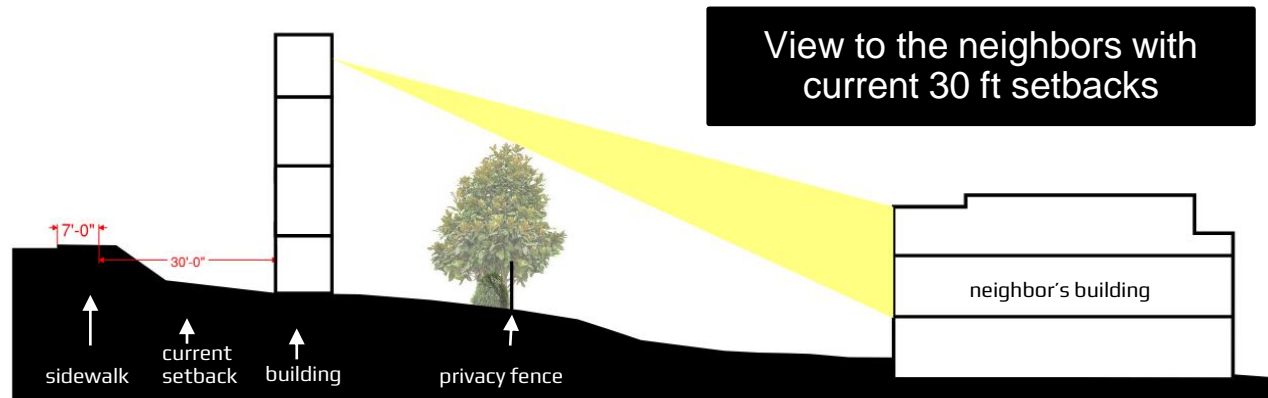
Our site is to the west & north of adjacent neighbors, so only afternoon sunlight could be impacted

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

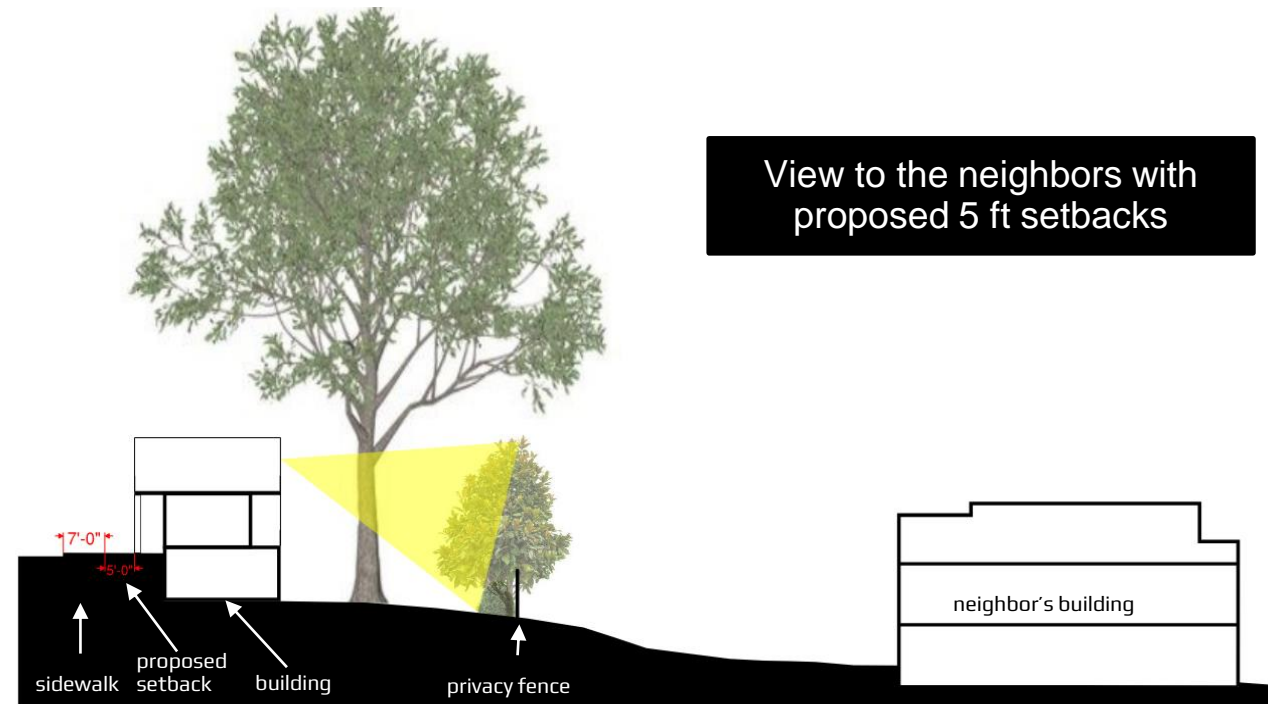
# D) A setback reduction will improve public safety

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

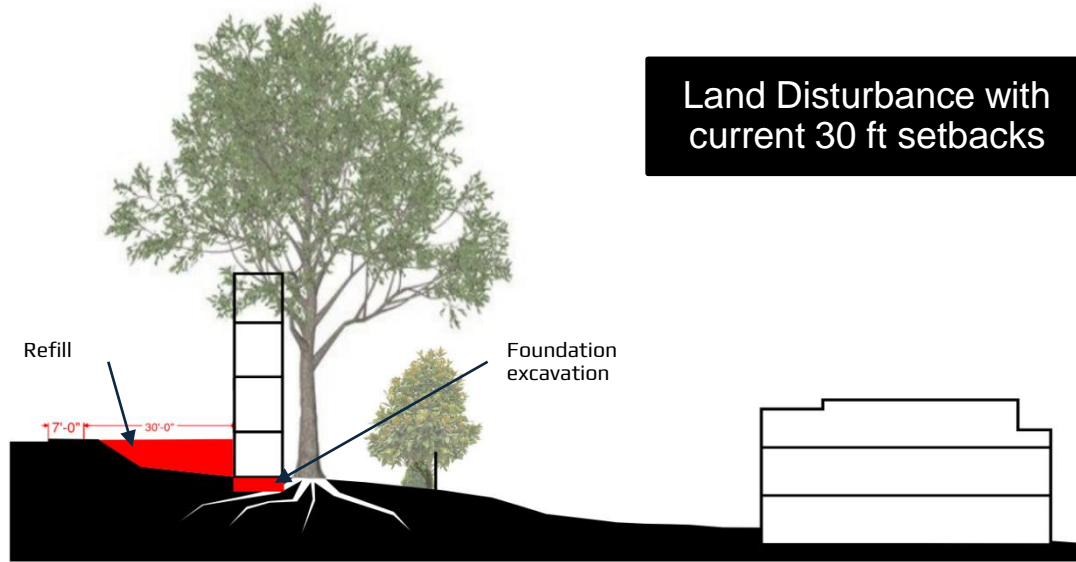


A reduced front setback will allow us build a shorter building, preserving neighboring property privacy



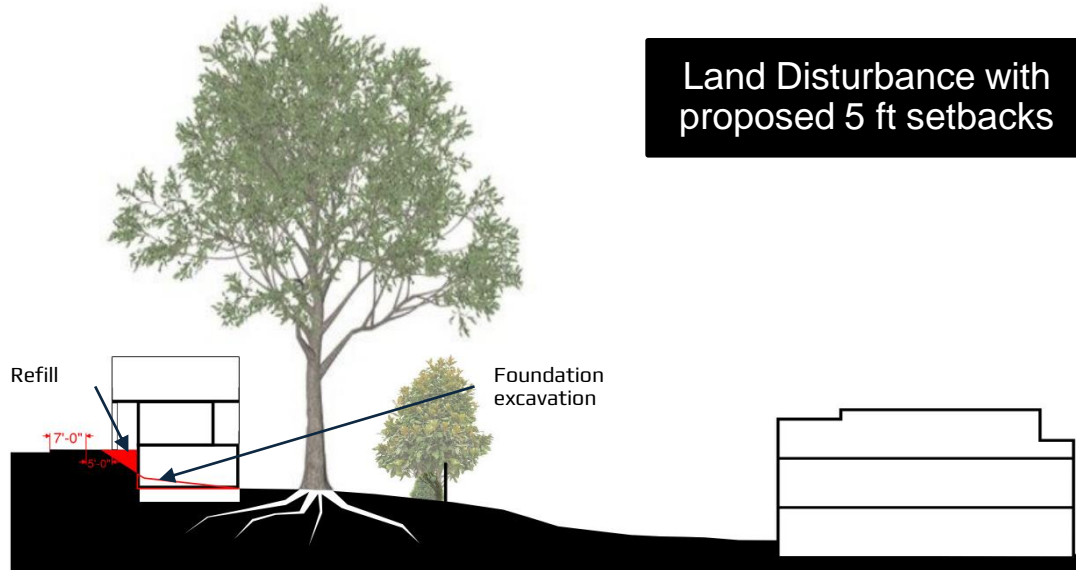
# D) A setback reduction will improve public safety

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



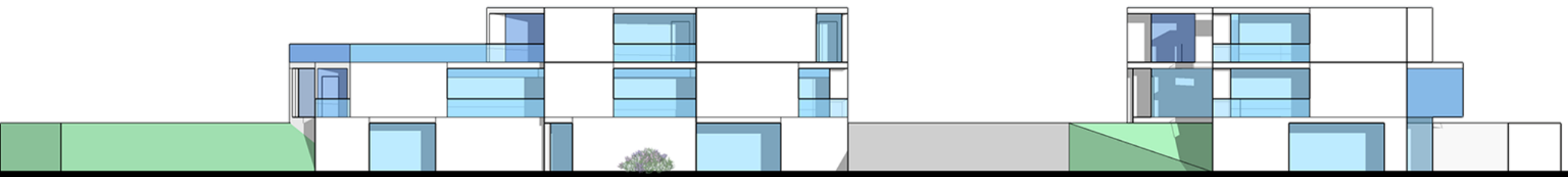
Existing streetscape on Commerce Dr



# 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.