



**Interoffice Memorandum**

DATE: October 2, 2019

TO: Mayor Jerry L. Demings  
-AND-  
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director  
Planning, Environmental, and Development Services  
Department

**CONTACT PERSON: Steven Thorp, AICP, Chief Planner  
Zoning Division 407-836-5549**

SUBJECT: November 12, 2019 – Board Called Hearing  
Applicant: Florida Engineering Group, Inc.  
BZA Case #SE-19-09-105, September 5, 2019; District 5

Board of Zoning Adjustment (BZA) Case # SE-19-09-105, located at 10135 Buck Road, Orlando, FL 32825, in District 5, is a Board called public hearing to be heard on November 12, 2019. The applicant is requesting a special exception to allow two-story multi-family buildings within 100 ft. of the property line of any single-family dwelling district and a variance to allow a 10 ft. side (east) setback in lieu of the required 30 ft. side setback where adjacent to a single-family district.

The subject property is located on the north side of Buck Road, east of N. Dean Road.

At the September 5, 2019 BZA hearing, staff recommended approval of the special exception and the variance, as the proposed townhouse style condominium units are compatible with the R-2, Residential Zoning District, which allows single-family homes, multi-family development, and associated accessory structures. The BZA recommended approval of the special exception and the variance with a 5-0 vote subject to four (4) conditions.

The application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

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November 12, 2019 – Board Called Public Hearing

Florida Engineering Group, Inc.

BZA Case #SE-19-09-105, September 5, 2019; District 5

If you have any questions regarding this matter, please contact Steven Thorp, AICP at 407-836-5549.

**ACTION REQUESTED: Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or deny the applicant's request. District 5.**

**PLANNING, ENVIRONMENTAL DEVELOPMENT SERVICES DEPARTMENT  
ZONING DIVISION PUBLIC HEARING REPORT  
November 12, 2019**

The following is a public hearing before the Board of County Commissioners on November 12 at 2:00 p.m.

**APPLICANT:** FLORIDA ENGINEERING GROUP, INC.

**REQUEST:** Special Exception and Variance in the R-2 zoning district as follows:  
1) Special Exception to allow two-story multi-family buildings within 100 ft. of the property line of any single-family dwelling district.  
2) Variance to allow a 10 ft. side (east) setback in lieu of the required 30 ft. side setback where adjacent to a single-family district.

**LOCATION:** 10135 Buck Road, Orlando, FL 32825, north side of Buck Road, east of N. Dean Road

**TRACT SIZE:** 1.37 acres

**ZONING:** R-2

**DISTRICT:** #5

**PROPERTIES NOTIFIED:** 309

**BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:**

Staff described the character of the neighborhood, noting that the planned development to the north and northwest of the property had a height limit of four (4) stories, with a setback requirement for buildings over two (2) stories. Staff further explained that if the duplexes to the east were not fee-simple ownership, a special exception would not be needed, as they would be treated as multifamily. Conversely, if the proposed "townhouse style" multi-family condominiums were developed as fee-simple townhouses, rather than as multi-family, a special exception would not be required. Staff concluded with the fact that it had received one (1) correspondence in favor, and none in opposition.

The applicant's engineer was in agreement with the staff recommendation and conditions, with the exception of Condition #4. They would like to continue the six (6) ft. opaque barrier entirely to the front property line. Staff explained that this would require a separate variance, which would need to be advertised. Staff suggested that the condition be amended to include the ability for the applicant to substitute a vegetative screening in lieu of the fence, for which there is no height limitation. The applicant's engineer concurred. The aide to District 5 Commissioner was present to advise the BZA that the Commissioner was not in favor of the variance to the side setback, and

would prefer a 30 ft. setback, so that the future residents of the townhomes could not look directly into the yards of the neighboring duplexes. There being no one present to speak in favor or opposition to the requests, the public hearing was closed.

The BZA asked staff if the townhouses would only be 10 ft. from the neighboring duplexes. Staff noted that if the duplexes were designed per code, they would be at least 20 to 25 ft. from their rear property line, so there would be 30 to 35 ft. of separation. The BZA concluded that the design would provide adequate separation, and that if the proposed "townhouse style" multi-family condominiums were developed as fee-simple townhomes, a special exception hearing would not be required. The BZA recommended approval of the special exception and variance subject to four (4) conditions as modified.

### **BZA HEARING DECISION:**

A motion was made by Juan Velez, seconded by Carolyn Karraker and unanimously carried to APPROVE the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and further, APPROVED the Variance request in that the Board made a finding that the requirements of Orange County Code Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended (unanimous; 5-0 and 2 absent):

1. Development in accordance with the site plan dated July 17, 2019, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A six (6) foot tall opaque fence or wall shall be erected along the east property line to a point twenty (20) feet from the front property line where the height will be reduced to four (4) feet, or replaced with a vegetative buffer.

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 05, 2019**

Case Planner: **David Nearing, AICP**

Case #: **SE-19-09-105**

Commission **#5**

District:

## GENERAL INFORMATION

APPLICANT(s): FLORIDA ENGINEERING GROUP, INC.

OWNER(s): VIRTUS NORTH AMERICA LLC

REQUEST: Special Exception and Variance in the R-2 zoning district as follows:

- 1) Special Exception to allow two-story multi-family buildings within 100 ft. of the property line of any single-family dwelling district.
- 2) Variance to allow a 10 ft. side (east) setback in lieu of the required 30 ft. side setback where adjacent to a single-family district.

PROPERTY LOCATION: 10135 Buck Rd., Orlando, FL 32825, north side of Buck Rd., east of N. Dean Rd.

PARCEL ID: 08-22-31-0000-00-012

LOT SIZE: 266 ft. x 225 ft. / 1.37 acres

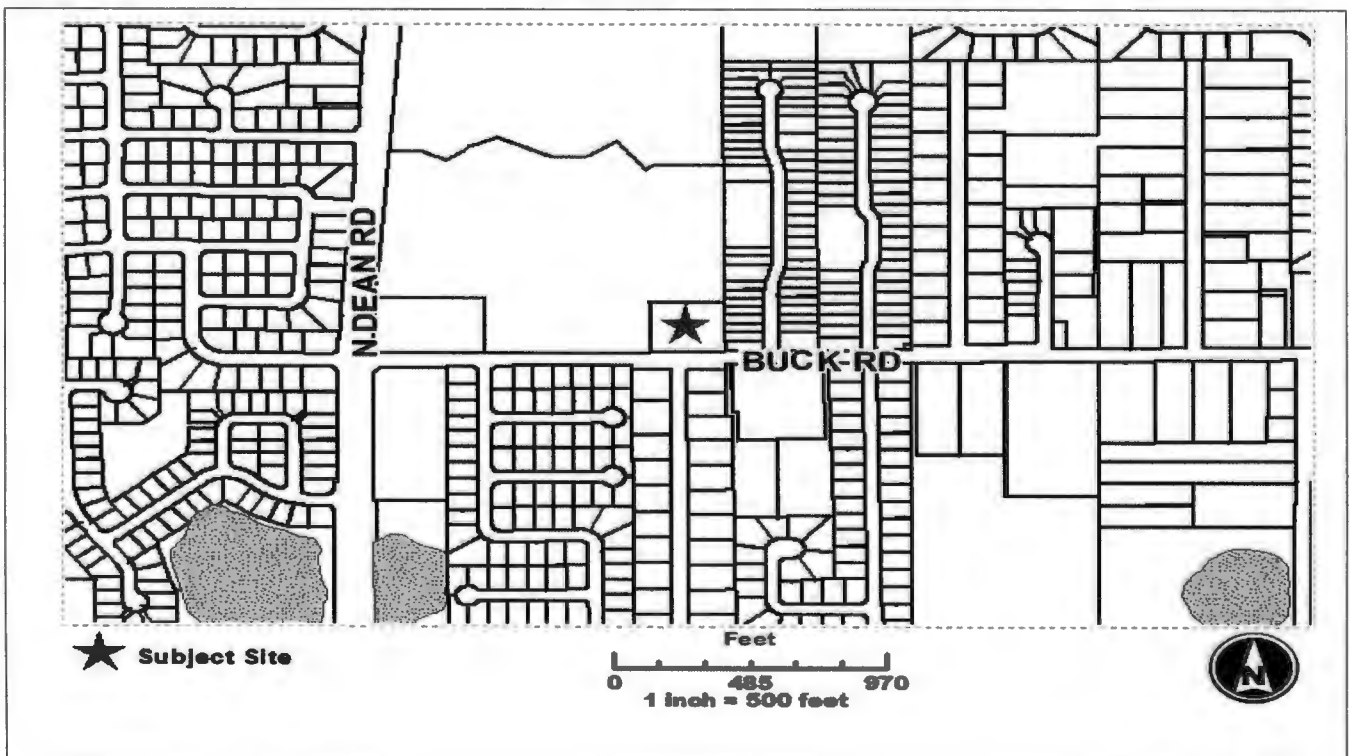
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 309

## STAFF RECOMMENDATIONS

Approval subject to the conditions in this report.

## LOCATION MAP



**SITE & SURROUNDING DATA**

	<b>Property</b>	<b>North</b>	<b>South</b>	<b>East</b>	<b>West</b>
Current Zoning	R-2	P-D	R-2 & R-T-2	R-2	P-D
Future Land Use	LMDR	MDR	LDR	LMDR	MDR
Current Use	Single family residence	Multi-family	Single family residence	Single family residence	Multi-family

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The property is located in the R-2, Residential Zoning District, which allows single-family homes, multifamily development, and associated accessory structures.

The property currently is developed with a 1,140 sq. ft. single family home constructed in 1940. The applicant is proposing to construct 13 townhouse style condominium units on the 9.49 acre parcel. While two stories in height, the units are less than 30 ft. tall. Each unit will have an integrated two-car garage. There are four parallel parking spaces for guest parking, two on either side of central green.

To the east of the subject property are three fee simple duplexes. The north and west is the University P-D. This community consists of one, two, and three story condominiums. The one and two story units can be located within 25 feet of any property line, including those abutting single family residential. Units three or more stories must be a minimum of 150 feet from all property lines. The project is approved to allow up a four story structure.

If the proposed development consisted of fee-simple townhouses, they would be considered single family and a Special Exception or Variance would not be required.

As of the preparation of this report, staff has received one correspondence in support and none in opposition to this application.

**District Development Standards**

	<b>Code Requirement</b>	<b>Proposed</b>
Max Height:	1 Story and 35 ft.	2 Story & 30 ft.
Min. Lot Width:	85 ft.	266 ft.
Min. Lot Size:	15,000 sq. ft.	59,932 sq. ft.

**Building Setbacks (that apply to structure in question) (Measurements in feet)**

	Code Requirement	Proposed
Front:	20 ft.	25 ft.
Rear:	30 ft.	30 ft.
Side:	30 ft.	10 ft.
Sidestreet:	N/A	N/A
NHWE:	N/A	N/A

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**STAFF FINDINGS**

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**SPECIAL EXCEPTION CRITERIA**

**Consistent with the Comprehensive Plan**

With the approval of the Special Exception, the proposed use will be consistent with the Comprehensive Plan.

**Similar and compatible with the surrounding area**

All of the adjacent units consist of multiple unit buildings.

**Shall not act as a detrimental intrusion into a surrounding area**

The project is located in such a way that it is on the edge of the single family area, and is surrounded on two sides by a larger, more densely developed P-D. It will act as a transitional use from Buck Road north.

**Meet the performance standards of the district**

With the granting of the variance for the rear setback, the project will meet all of the performance standards.

**Similar in noise, vibration, dust, odor, glare, heat producing**

The proposed project will not create any more noise, vibration, dust, odor, glare, heat than a typical single family residence.

**Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code**

The applicant has submitted a landscape plan. Staff recommends adding a six (6) ft. tall opaque barrier along the east property line.

## **VARIANCE CRITERIA**

### **Special Conditions and Circumstances**

The unique design and ownership of the site is the special condition of this site. Were the units fee simple townhomes, the side setback would be 10 ft. as opposed to 30 ft. Also, since the units are condominiums, all lawn care will be handled by the Condominium Association rather than individual property owners. Given the orientation of the units toward the central green, little activity will likely take place behind the units.

### **Deprivation of Rights**

If the variance is not granted the symmetry and flow of the site would be lost, and the project would likely be rendered impractical.

### **Minimum Possible Variance**

A ten (10) ft. setback is the least variance needed to achieve the desired design.

### **Purpose and Intent**

With the provision of adequate buffering, the purpose an intent of the code will be met.



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## CONDITIONS OF APPROVAL

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1. Development in accordance with the site plan dated July 17, 2019,, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
  2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
  4. A six (6) foot tall opaque fence or wall shall be erected along the east property line to a point twenty (20) feet from the front property line where the height will be reduced to four (4) feet.
- C: Greg Crawford for Florida Engineering Group, Inc.  
5127 S Orange Ave. Suite 200  
Orlando, FL 32809

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## COVER LETTER

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FLORIDA  
ENGINEERING  
GROUP

5127 S. Orange Avenue, Suite 200  
Orlando, FL 32809  
Phone: 407-895-0324  
Fax: 407-895-0325



### **SPECIAL EXCEPTION REQUEST JUSTIFICATION STATEMENT**

**10135 BUCK ROAD  
ORANGE COUNTY, FLORIDA**

**JULY 17, 2019**

The subject project site is approximately 1.38 acres and is located in the north side of Buck Road approximately 1,300 feet east of the intersection of Buck Road and Dean Road in Orange County, Florida. The site is zoned R-2 and previously included a single-family residential home, originally constructed in 1940, before the house was removed recently. The site is surrounded by multi-family (Duplex) residential use on the east side, by multi-family (Apartment) residential use on the north and west sides, and by Buck Road on the south side.

As mentioned, the site previously contained an existing single-family residential home, which was originally constructed in 1940 and was removed recently. The property is currently vacant.

The proposed development is to construct thirteen (13) condominium units that will be design to be like a townhome product. The units will include two (2) car garages with an extra four (4) parallel parking spaces, as well as a 6-foot high privacy wall around the project. The proposed units will be two (2) stories and the buildings will not exceed 30 feet in height, which is less than the allowable building height of 35 feet in R-2 zoned districts.

A Special Exception is required for a portion of the proposed 2-story units (six (6) units) that are located within 100 feet of the adjacent single-family (Duplex) homes located along the east property line. Even though the R-2 zoning allows for a maximum building height of 35 feet, since the proposed development is considered to be a multi-family development (condominiums), then any building located within 100 feet of a residential zoned/use parcel must not exceed 1-story. For properties zoned R-2, the Land Development Code does allow buildings greater than 1-story to be located within 100 feet of residential parcel via a Special Exception. As previously discussed, the proposed project will be a condominium project, but the buildings will be developed as a two (2) story townhome product, which is typically considered to be a single-family use.

The property to the north is zoned PD that is a multi-family residential (Apartments) development so the one story within 100-feet requirement does not apply. It should be noted that the two (2) story buildings for the Apartment development to the north also abuts the single-family residential development to the east with several of the buildings being located less than 100 feet from the eastern property line.

The following paragraphs provide justification for this special exception request, which is consistent with the specific standards for the approval of special exceptions as outlined in Section 38-78 of the Orange County Code of Ordinances.

1. The use shall be consistent with the comprehensive policy plan.

**Response:** The site is zoned R-2 and the Future Land Use Designation for the site is Low-Medium Density Residential; therefore, the proposed use is compatible with the site zoning. As previously mentioned, the project will be considered a condominium project (multi-family), but the product that will be constructed on the property will be a townhome product, which is typically considered to be a single-family use.

2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.

**Response:** The site was used for single-family use and has been a residential use since 1940. The proposed development is considered to be a condominium (multi-family) development, which is consistent with the current use for the property located on the north and west sides of this property. As previously mentioned, the project is considered to be a multi-family development, but the buildings will be a townhome style product, which are considered to be a single-family use that is similar to the duplex development located along the east property line.

3. The use shall not act as a detrimental intrusion into a surrounding area.

**Response:** The proposed use is not a detrimental intrusion to the surrounding area. The new buildings will be two (2) stories, but the proposed building heights will be less than the allowable for a building constructed in a R-2 district. In addition, as previously mentioned, the units will be constructed as a two (2) story townhome style product, which is typically allowed within the R-2 without any height restrictions within a given distance from other adjacent single-family residential uses.

4. The use shall meet the performance standards of the district in which the use is permitted.

**Response:** With the exception of this Special Exception request, the proposed use meets the performance standards for the R-2 Zoning District.

5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.

**Response:** The site is currently vacant, but it previously included a single-family home (constructed in 1940) on the property that was recently removed. The requested Special Exception does not change the existing use. Furthermore, the proposed use is compatible with the multi-family apartment complex to the north and west, as well as the single-family (duplex) units to the east.

6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.



5127 S. Orange Avenue, Suite  
200 Orlando, FL 32809  
Phone: 407-895-0324  
Fax: 407-895-0325



**Response:** Screening of the proposed development will be in accordance with the Orange County Landscape Code. In addition, the proposed development will include a 6-foot privacy wall/fence around the perimeter of the property to further screen the proposed development from the adjacent properties.

Please do not hesitate to contact me should you have any questions or need additional clarification regarding this request. I can be reached by phone at 407-895-0324 or by email at [gcrawford@feg-inc.us](mailto:gcrawford@feg-inc.us).

Sincerely,  
Florida Engineering Group, Inc.



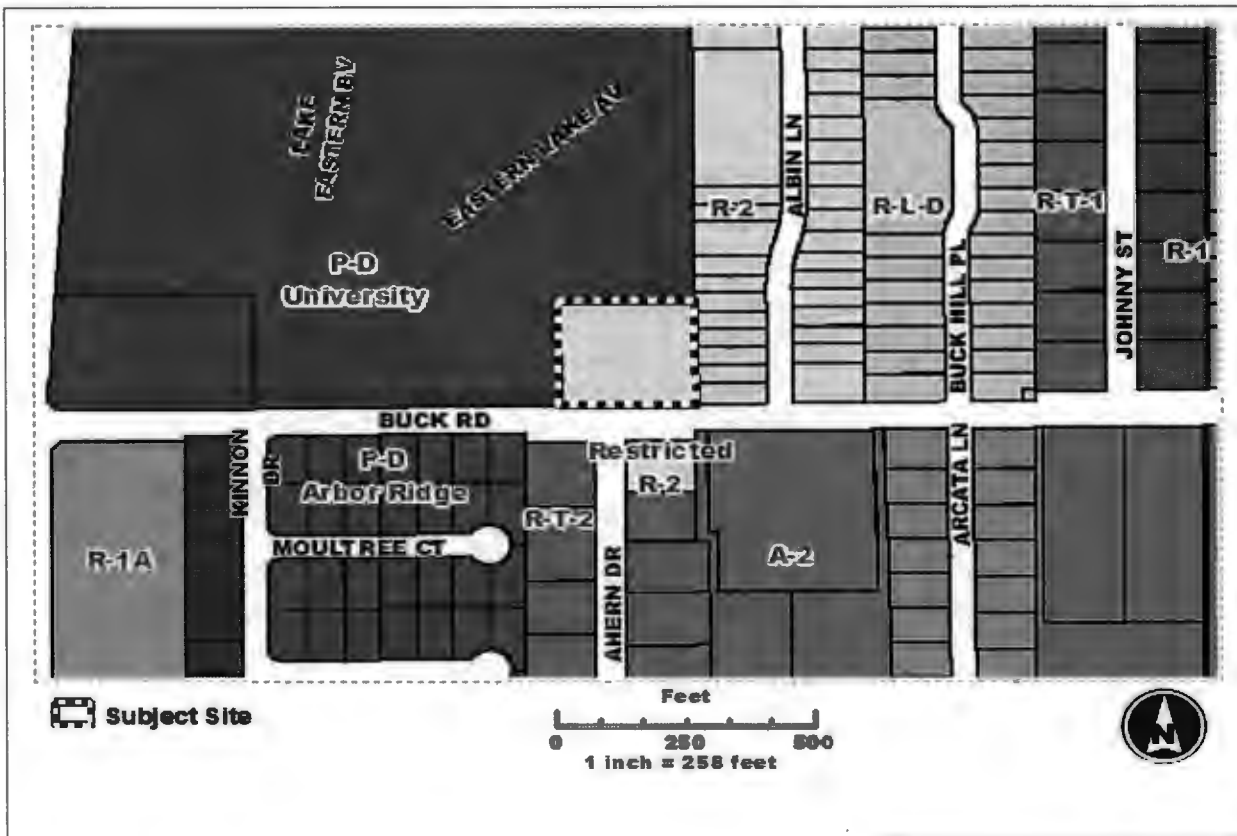
Gregory R. Crawford, PE, PSM  
Senior Project Manager



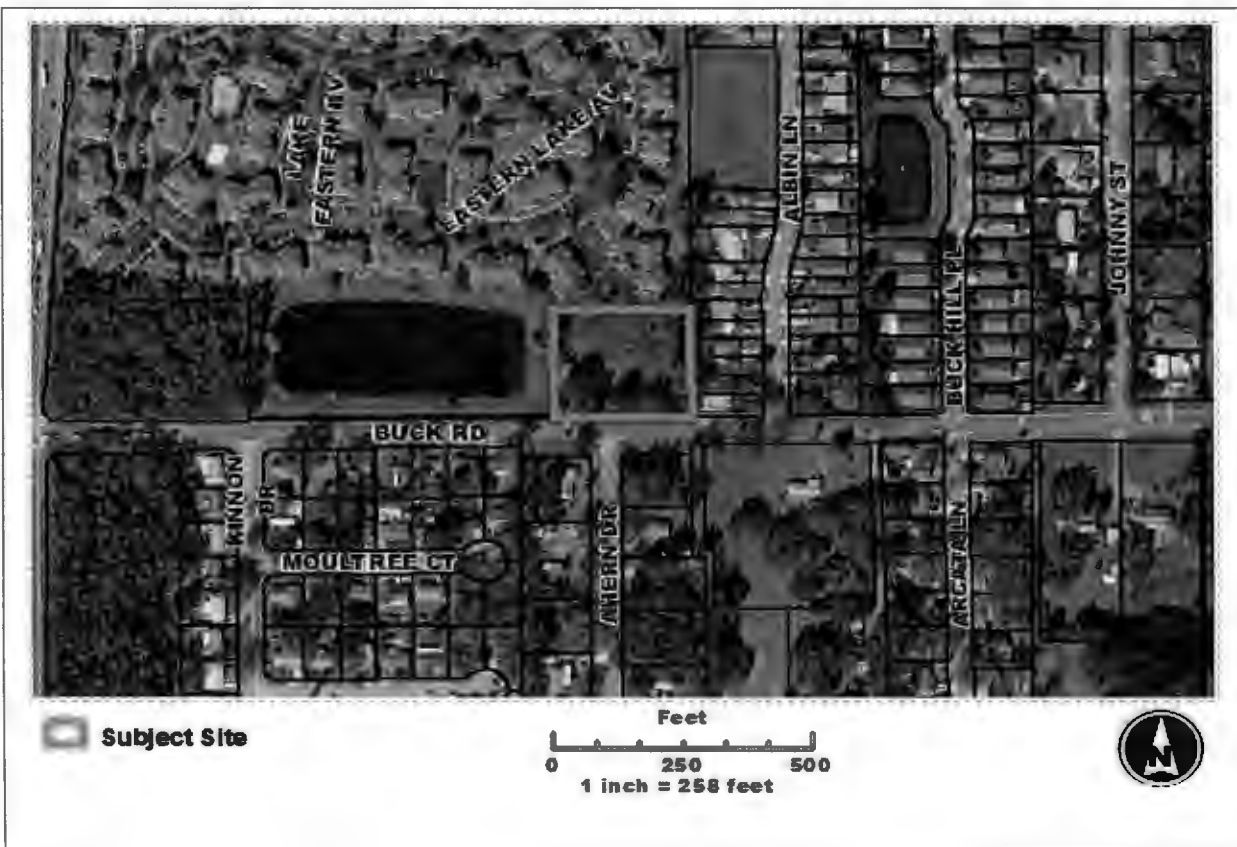
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Engineering the Future

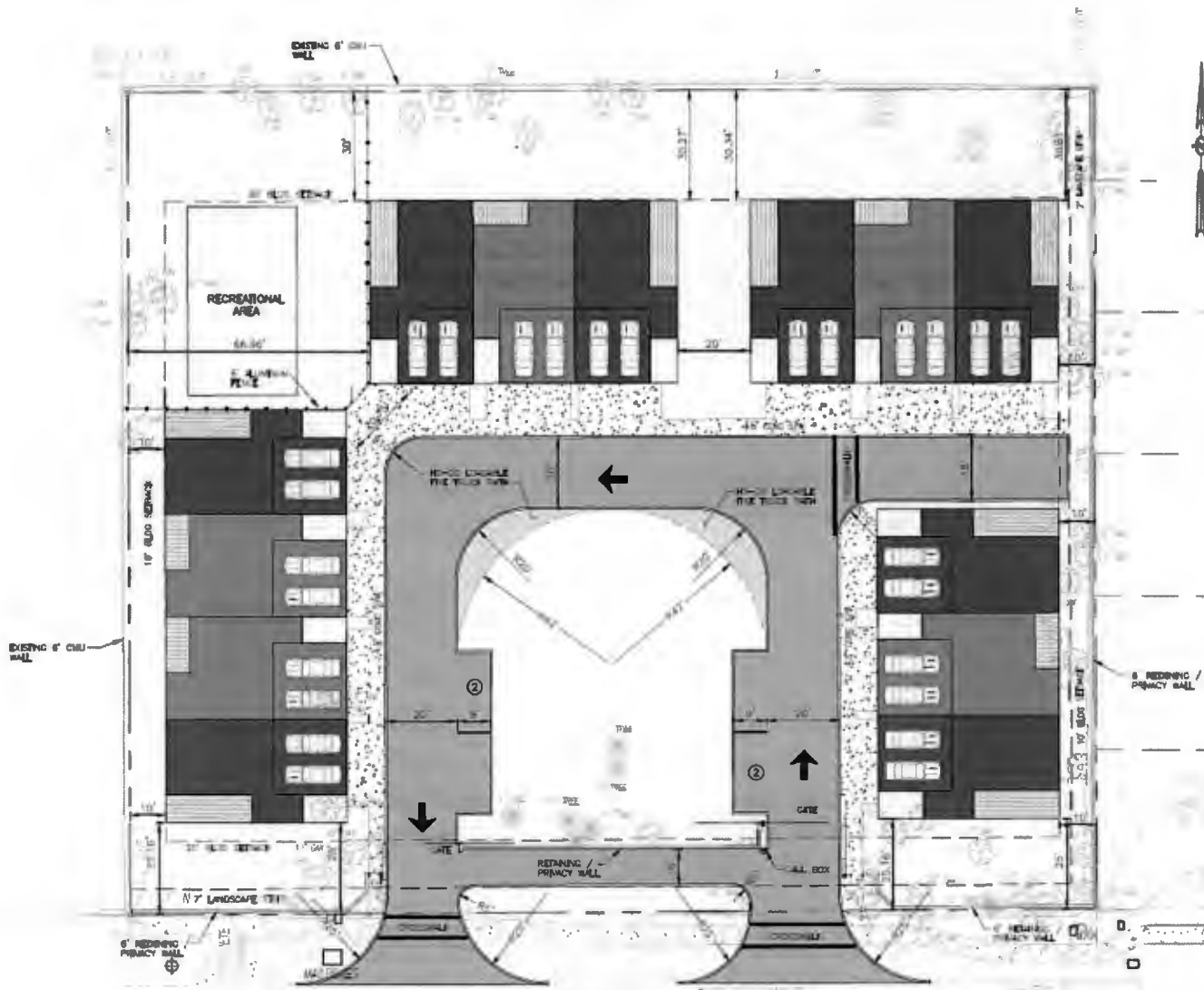
### ZONING MAP



### AERIAL MAP



**SITE PLAN**



**BUCK ROAD**  
60' PUBLIC R/W

**AHERN DRIVE**  
60' PUBLIC R/W

# LANDSCAPE PLAN

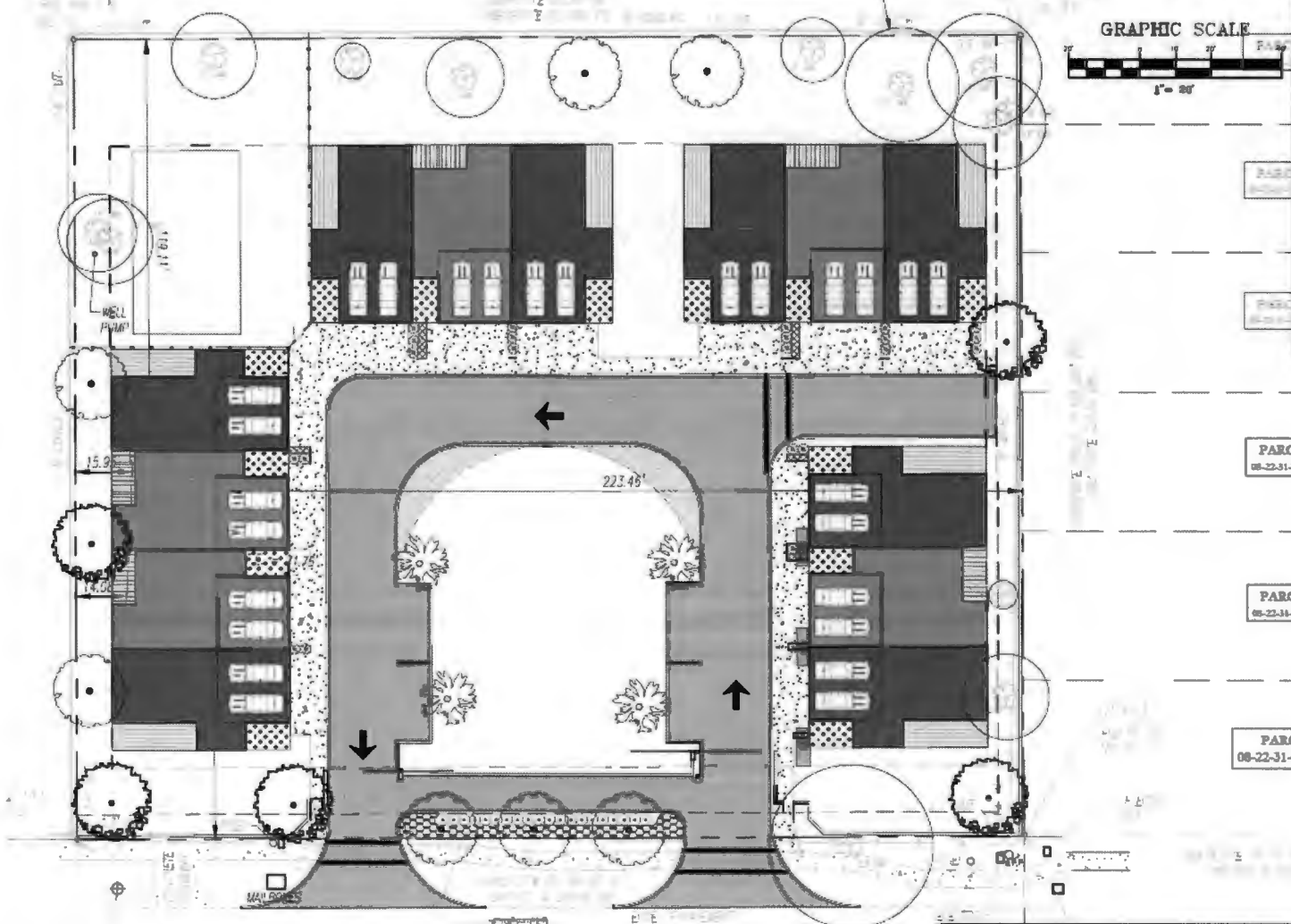
PARCEL ID:  
08-22-31-0000-00-011



GRAPHIC SCALE



TREE DRIP LINE (TYP.)



BUCK ROAD  
60' PUBLIC R/W

**NOTES**

1. SEE PLAN FOR TREE SIZES AND PLACEMENT.
2. SEE PLAN FOR TREE SIZES AND PLACEMENT.
3. SEE PLAN FOR TREE SIZES AND PLACEMENT.

**NOTES**

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FORM

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RENDERING

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**SITE PHOTOS**

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**Site Looking North**



**University P-D Looking North**