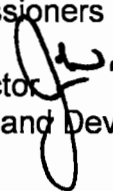





Interoffice Memorandum

DATE: July 22, 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: **Eric Raasch, DRC Chairman** 
Development Review Committee
Planning Division
(407) 836-5523

SUBJECT: August 20, 2019 – Public Hearing
Applicant: Scott Gentry, Kelly, Collins & Gentry, Inc.
Hamlin Planned Development – Unified Neighborhood Plan /
Hamlin East Proton Therapy Center Preliminary Subdivision
Plan / Development Plan
Case #CDR-19-03-086

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of June 26, 2019, to approve a substantial change to the Hamlin Planned Development – Unified Neighborhood Plan (PD - UNP) / Hamlin East Proton Therapy Center Preliminary Subdivision Plan (PSP) / Development Plan (DP) to construct two temporary ponds to serve the Proton site and Lot 1, modify Framework Streets D and F, and split Lot 2 into three parcels for a total of five lots within the PSP.

The required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these and the PSP may be found in the Planning Division for further reference.

ACTION REQUESTED: **Make a finding of consistency with the Comprehensive Plan and approve the Hamlin PD - UNP / Hamlin East Proton Therapy Center PSP / DP dated "Received June 3, 2019", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

JVW/EPR/lme
Attachments

CASE # CDR-19-03-086

Commission District # 1

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of June 26, 2019, to approve a substantial change to the Hamlin Planned Development – Unified Neighborhood Plan (PD - UNP) / Hamlin East Proton Therapy Center Preliminary Subdivision Plan (PSP) / Development Plan (DP) to construct two temporary ponds to serve the Proton site and Lot 1, modify Framework Streets D and F, and split Lot 2 into three parcels for a total of five lots within the Preliminary Subdivision Plan.

2. PROJECT ANALYSIS

- A. Location: North of New Independence Parkway / East of Hamlin Groves Trail
- B. Parcel IDs: 21-23-27-2719-02-000, 21-23-27-2719-02-001,
21-23-27-2719-02-002, 21-23-27-2719-01-000,
21-23-27-2719-03-000
- C. Total Acres: 60.78
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: N/A
- G. School Population: N/A
- H. Parks: West Beach Park – 8.7 miles
- I. Proposed Uses: Multi-Family / Office / Commercial
- J. Site Data: Maximum Building Height: 150'
Building Setbacks:
10' Front
5' Side
55' Centerline of Right-of-Way
10' Rear
- K. Fire Station: 34 - 4000 CR 535
- L. Transportation: Based on the concurrency management system database dated 08-31-17, capacity is available to be encumbered for this project. This information is dated and is subject to change.

3. COMPREHENSIVE PLAN

The property's Future Land Use Map (FLUM) designation is Village (V). As such, the request is consistent with the Comprehensive Plan.

4. ZONING

PD (Planned Development District) (Hamlin PD / UNP)

5. REQUESTED ACTION:

Approval subject to the following conditions:

1. Development shall conform to the Hamlin Planned Development – Unified Neighborhood Plan; Orange County Board of County Commissioners (BCC) approvals; Hamlin East Proton Therapy Center Preliminary Subdivision Plan / Development Plan dated "Received June 3, 2019" and to the conditions of approval listed below. Development based upon this approval shall comply with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable county laws, ordinances, or regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC. In the event of a conflict or inconsistency between a condition of approval of this preliminary subdivision plan and the preliminary subdivision plan dated "Received June 3, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. 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.

4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this preliminary subdivision plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.

5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).

6. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated, January 9, 2018, shall apply:
 - a. The stormwater management system shall be designed to retain the 100-year/24-hour storm event onsite, unless documentation with supporting calculations is submitted which demonstrates that a positive outfall is available. If the applicant can show the existence of a positive outfall for the subject basin, then in lieu of designing for the 100-year/24-hour storm event, the developer shall comply with all applicable state and local stormwater requirements and regulations. An emergency high water relief outfall shall be provided to assure overflow does not cause flooding of surrounding areas.

 - b. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any

Construction Plan submittal and must be approved prior to Construction Plan approval for any streets and / or tracts anticipated to be dedicated to the County and / or to the perpetual use of the public.

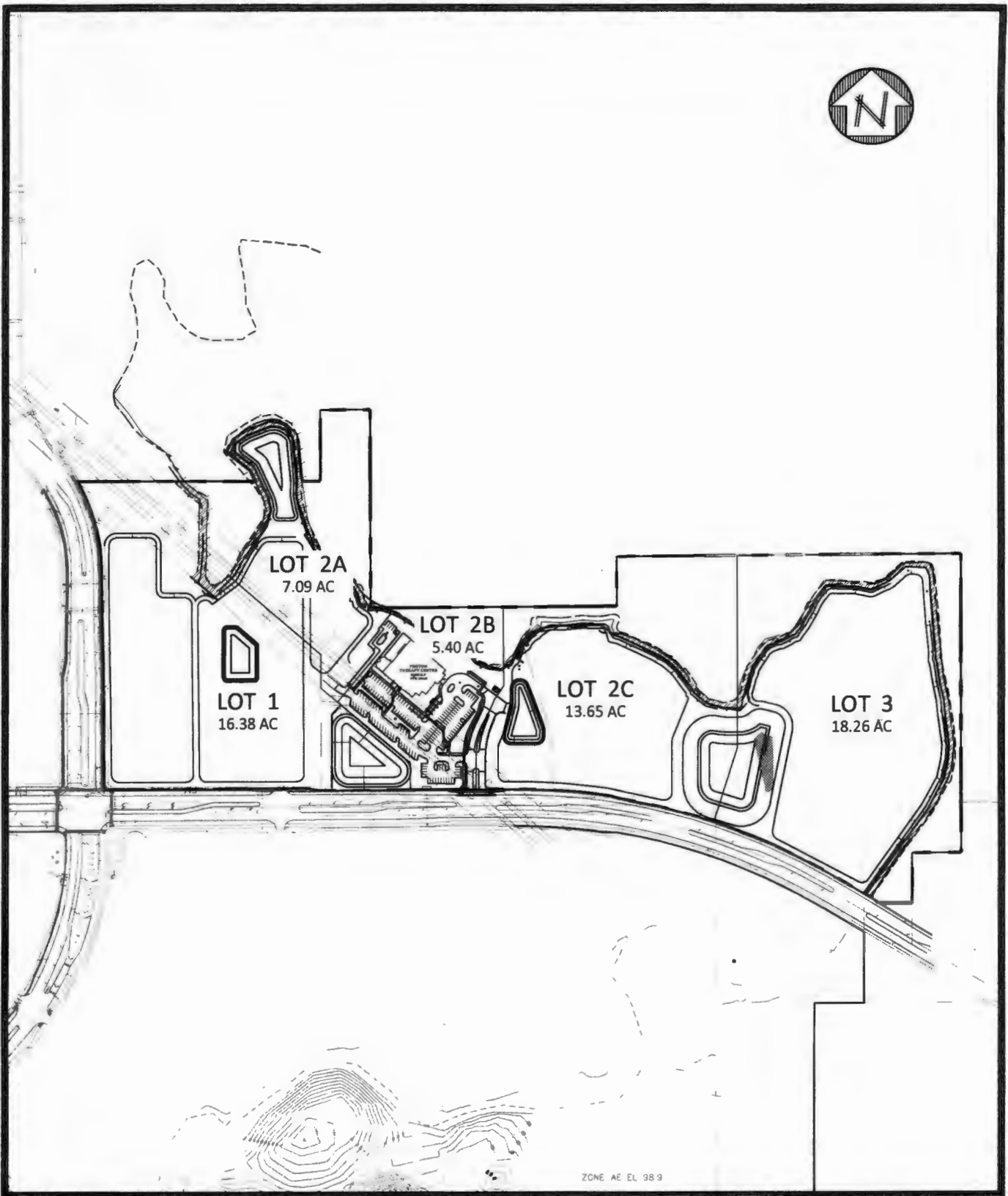
- c. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and noting in the decision to approve this land use plan/preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
- d. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection by the developer.
- e. Approval of this plan does not constitute approval of a permit for the construction of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.
- f. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.
- g. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
- h. The site shall be stabilized following grubbing, clearing, earth work or mass grading to establish a dense stand of grass, or shall incorporate other approved Best Management Practices, on all disturbed areas if development does not begin within 7 days. Final stabilization shall achieve a minimum of seventy percent (70%) coverage of the disturbed

land area and shall include a maintenance program to ensure minimum coverage survival and overall site stabilization until site development. Prior to clearing or grubbing, or approval of mass grading or constructions plans a letter of credit or cash escrow acceptable to the County shall be submitted to guarantee the required site stabilization and maintenance of all disturbed areas. The County Engineer shall establish the amount of the letter of credit or cash escrow.

- i. Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Only Rain in the Drain." Specification detail will be provided within all plan sets. Contact the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division for details.
- j. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) for the PSP, including hydraulically dependent parcels outside the PSP boundaries; such MUP shall include supporting calculations showing that the PSP-level MUP is consistent with the approved MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.
- k. The property will rely upon private utility infrastructure (mains and/or lift station) located on property owned by an entity other than the developer. Construction plans shall not be approved until the developer can demonstrate the right to connect to such private utility infrastructure via a recorded private utility easement.
- l. Any new street which is an extension of or in alignment with an existing street shall bear the same name as that borne by such existing street.
- m. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with the Master Sign Plan.
- n. Outside sales, storage, and display shall be prohibited.
- o. Construction plans shall denote that any clearing of shoreline vegetation, wetland enhancement, or altering of the shoreline in the upland buffer, wetland, or below the NHWE shall require approval by the Orange County Environmental Protection Division.
- p. The applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this development, through an appropriate mechanism, including a conspicuous note on the plat and/or a recorded restrictive covenant, as applicable, that the adjacent northern land use includes property known as the Horizon West Regional Park. The notice shall indicate that the northern adjacent

property includes recreational activities that may result in periodic temporary conditions that may cause a noise disturbance.

- q. As proof of satisfaction of the project's transportation concurrency obligations, the project must comply with that certain Town Center East Road Network Agreement recorded at O.R. Book 10306, Page 1364, Public Records of Orange County, Florida. The developer must provide a valid Assignment of Vested Trips document together with the applicable Confirmation Letter issued by Orange County, concurrently with or prior to plat approval. In addition, any Development Plan must show a legend with trip allocations by parcel identification number and phase of the development
- r. The road retention pond fee dedication or the revised executed drainage easement shall be completed / recorded prior to construction plan approval of any lot within this PSP/DP.
- s. Prior to the issuance of a building permit, the property owner shall record in the public records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the Hamlin East Proton Therapy Center is no closer than 5 feet from the normal high water of Lake Hartley.
- t. Short term/ transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.
- u. Subject to the terms of a hold harmless agreement with Orange County, a waiver from Orange County Code Section 38-1501 is granted to allow a five (5) foot setback from the Normal High Water Elevation (NHWE), in lieu of the required fifty (50) foot setback from the NHWE.



ZONE AE EL 98.9

**KELLY,
COLLINS &
GENTRY, INC.**

ENGINEERING / PLANNING

Scale: 1" = 450'

Date: 7/11/19

S: 20 T: 23 R: 27

Job #: 1219.000

Drawn by: JAM

Appvd. by: JAM

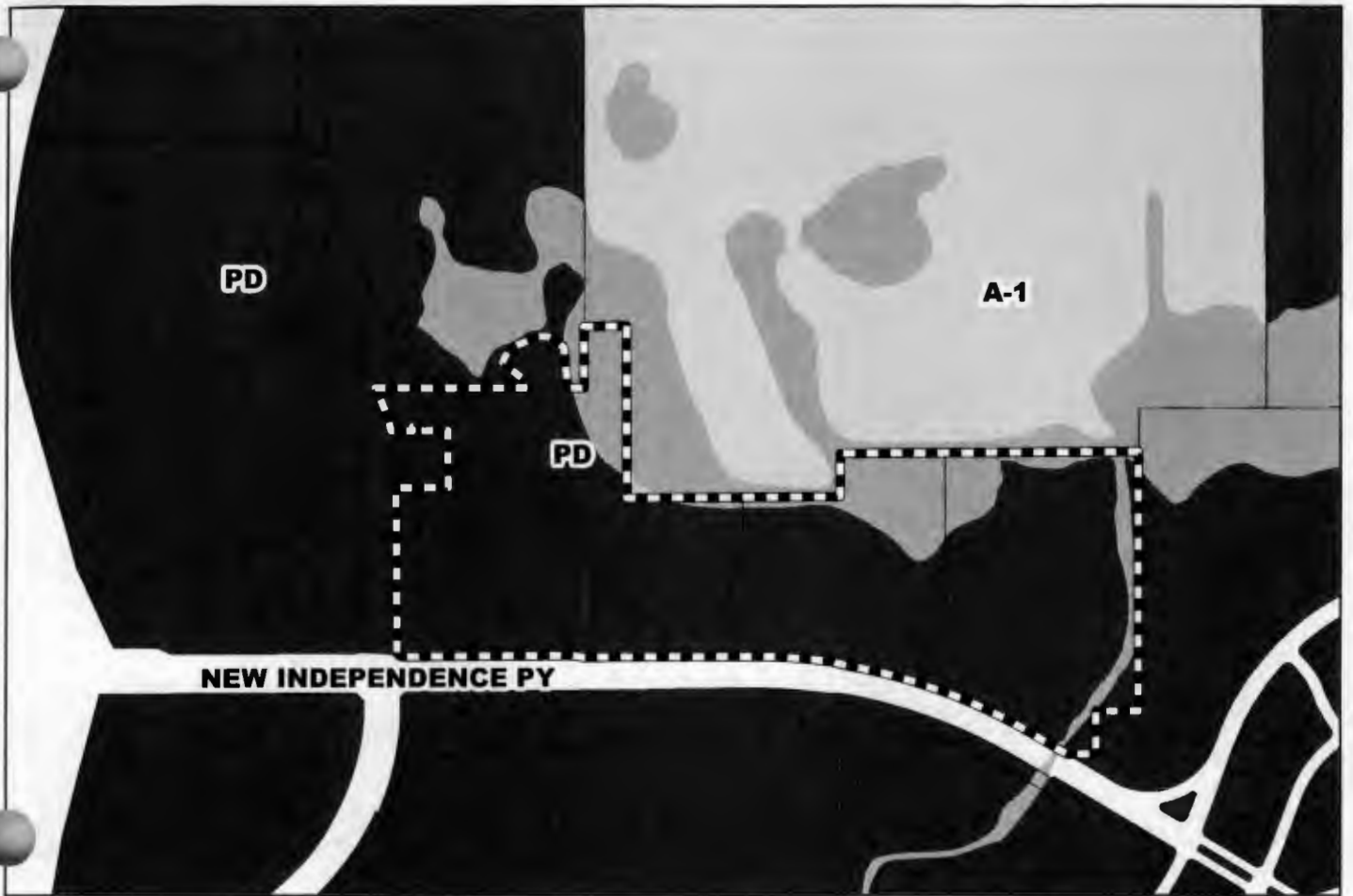
**HAMLIN EAST PROTON
THERAPY CENTER**

Exhibit: SITE PLAN EXHIBIT

Source: KCG ENGINEERING

Area: ORANGE COUNTY, FL

| 1 of 1



 Subject PSP



 Subject Property

Zoning Map

ZONING: PD (Planned Development District)

APPLICANT: Scott Gentry, Kelly, Collins & Gentry, Inc.

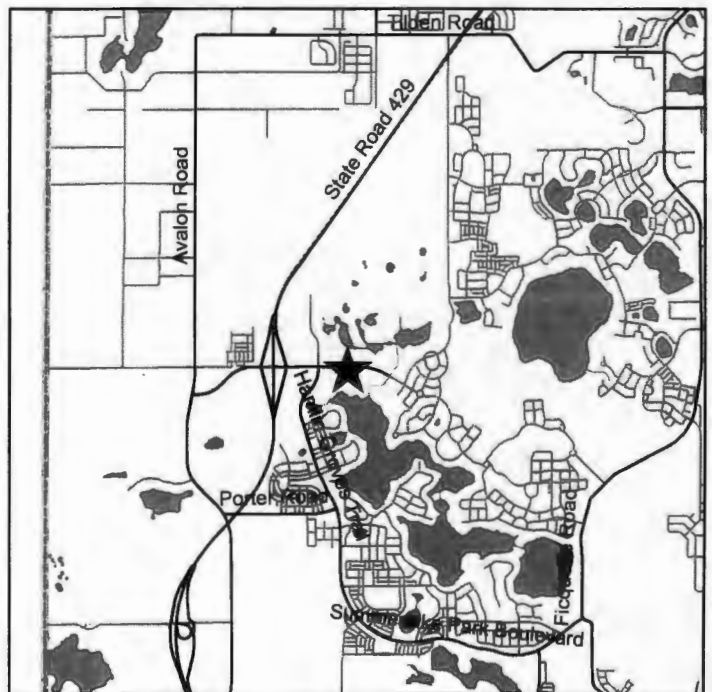
LOCATION: North of New Independence Parkway /
East Hamlin Groves Trail

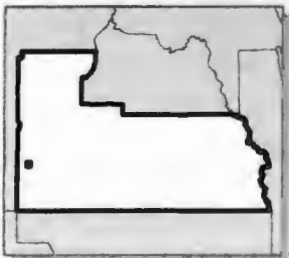
TRACT SIZE: 60.78

DISTRICT: 1

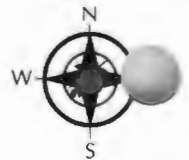
S/T/R: 21/23/27

1 inch = 667 feet





Hamlin PD - UNP Proton Therapy Center - PSP - DP - CDR-19-03-086



Parcels		Subject Property		Jurisdiction		Hydrology	
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1 : 4,800
1 in : 400 ft