



Interoffice Memorandum

November 2, 2020

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: **David D. Jones, P.E., CEP, Manager**
Environmental Protection Division
(407) 836-1406

SUBJECT: December 1, 2020 – Public Hearing
Hamlin Retail Partners East, LLC Conservation Area Impact
Permit Modification No. CAI-15-09-034
(Related Case #SADF-19-04-007)

The applicant, Hamlin Retail Partners East, LLC, is requesting a modification to a Conservation Area Impact (CAI) permit in order to change the configuration of a previously authorized boardwalk along Lake Hancock for the Hamlin North Cove project. The subject property is located at 14111 Shoreside Way, Winter Garden, FL 34787 in District 1. The Parcel ID Nos. are 20-23-27-2713-03-000 and 20-23-27-2713-04-000.

The original CAI permit (CAI-15-09-034) for the project was authorized by the Board at a public hearing on December 13, 2016, and was subsequently issued by the Environmental Protection Division (EPD) on December 20, 2016. The permit authorized direct impacts to 0.43-acre of Class I wetlands in order to construct portions of an elevated boardwalk along Lake Hancock as well as portions of stormwater retention ponds and a floodplain compensating storage area to service a retail shopping and dining area. The permit also authorized 1.67 acres of secondary Class I wetland and surface water impacts associated with the construction of the boardwalk, a floating dock, and a kayak launch. The previously authorized 0.43-acre of direct Class I wetland impacts have been completed and portions of the retail area are under construction; however, the boardwalk and other waterfront features have not yet been started. Mitigation for the direct and secondary impacts includes preservation of 10.38 acres of Class I wetlands at the Latham Park Mitigation Tract. The mitigation area has been preserved via a recorded conservation easement.

On March 23, 2020, EPD received a request to modify CAI-15-09-034 for proposed changes to the boardwalk. The changes include removing the kayak launch from the plan and adding a second mooring dock in the adjacent northwesternmost cove of Lake Hancock within the retail development. With these proposed changes, the total acreage of the boardwalk will increase from 1.67 acres to 1.75 acres. The secondary impacts due to shading of surface waters for the portion of the dock below the Normal High Water Elevation will increase by 0.105 acre. However, by removing the kayak launch and other minor adjustments to the boardwalk configuration, and due to a slight surplus of mitigation

provided in the original permit, the applicant has sufficient mitigation under the original permit to adequately offset both the original impacts and the proposed modifications.

EPD staff has evaluated the proposed impacts and site plan with the review criteria in Orange County Code, Chapter 15, Article X. Pursuant to Section 15-396(3)(a), the removal, alteration or encroachment within a Class I conservation area shall only be allowed in cases where no other feasible or practical alternatives exist that will permit a reasonable use of the land or where there is an overriding public benefit. Additionally, pursuant to Section 15-362(5), where wetlands serve a significant and productive environmental function, the public health, safety and welfare require that any alteration or development affecting such lands should be so designed and regulated so as to minimize or eliminate any impact upon the beneficial environmental productivity of such lands, consistent with the development rights of property owners.

Based on the documentation and justifications provided, staff has determined the applicant has demonstrated that the proposed site plan allows for reasonable use of the land, pursuant to Section 15-396(3)(a), and that there are no other feasible or practical alternatives available to further minimize or eliminate wetland impacts, pursuant to Section 15-362(5), and therefore the request meets the criteria for approval.

Notification of the public hearing was sent via electronic correspondence to the applicant and their agent. Notification of the adjacent property owners is not required.

There has been no enforcement action taken by EPD on the subject property.

EPD staff has made a finding that the request is consistent with Orange County Code, Chapter 15, Article X, Sections 15-396(3)(a) and 15-362(5) and recommends approval of the permit modification of CAI Permit No. CAI-15-09-034, subject to the conditions listed below.

Specific Conditions:

1. This permit shall become final and effective upon expiration of the 30-calendar day period following the date of rendition of the Board's decision approving the permit, unless a petition for writ of certiorari or other legal challenge has been filed within this timeframe. Any timely filed petition or other challenge shall stay the effective date of this permit until the petition or other challenge is resolved in favor of the Board's decision.
2. The operational phase of this permit is effective upon the completion of the construction and continues in perpetuity.
3. The direct wetland impacts have been completed in accordance with 'Sheet C-1' of the plans prepared by Kelly, Collins & Gentry, Inc., received by the Environmental Protection Division (EPD) on July 27, 2016. The secondary impacts associated with the boardwalk shall be completed in accordance with the 'Hamlin Sec Dock Exhibit'

plan prepared by Bio-Tech Consulting, Inc., and received by EPD on November 2, 2020. Construction shall be completed within five years from issuance of this permit unless extended in writing. Requests for permit extension must be submitted to EPD prior to the expiration date.

4. Mitigation for the surface water and wetland impacts includes the preservation of 10.38 acres at the Latham Park Mitigation Tract. EPD received confirmation of the transaction to complete the mitigation on September 2, 2016. The preservation area is under a conservation easement recorded in public records as Document ID #20130544502.
5. The floating docks shall be constructed as depicted on the “Hamlin Sec Dock Exhibit” plan submitted by Bio-Tech Consulting, Inc., dated as received by EPD on November 2, 2020. The docks shall not exceed the dimensions on the plan.
6. A permanent, highly visible staff gauge shall be properly installed and maintained in a usable condition at the end of each floating dock. The accuracy of the staff gauge will be confirmed by a professional surveyor annually and at such times as the accuracy may be compromised by accident, vandalism, or other incident.
7. To prevent bottom scouring during low-water conditions, permanent vinyl or aluminum signs shall be posted in at least two locations on the floating dock structures (visible from the water) to inform boaters that the floating docks shall not be utilized by motorized boats when the water level of Lake Hancock falls below 89.0 feet NAVD. The sign locations and language must be approved by EPD prior to installation.
8. There shall be no overnight mooring of any vessel to the boardwalk or floating dock structures.
9. Fueling of vessels from the boardwalk or floating dock is prohibited. There shall be no storage or disposal of any hazardous materials, solid wastes, or liquid wastes on the boardwalk or floating dock structures.
10. Portions of the floating dock structures shall utilize reflective tape or paint for safety and as an aid to navigation.
11. Boats, vessels, or watercraft moored to any mooring structure shall not impede navigation in Lake Hancock.
12. No vessel or watercraft of any kind shall moor to or tie up to the retaining wall, as depicted on the plans.
13. The rental of dock space or moorings, or the rental of vessels for any purpose whatsoever is expressly prohibited.

14. Upon completion of the floating dock structures, the permittee is required to submit a signed and sealed “as-built” survey of the docks that includes the following information:
 - North arrow;
 - Name of water body;
 - Reference point(s);
 - Setback distances from all portions of the docks to the retaining wall;
 - Normal High Water Elevation (NHWE);
 - Roof elevations (measured from the top of the floor to the top of the roof);
 - Access walkway width;
 - Floor elevation of the docks; and
 - Complete dimensions of the dock structures.
15. Any roof structure proposed on the floating docks shall not exceed 12 feet in height (from top of floor elevation to the top of the roof).
16. An absorbent oil boom shall be installed under the floating docks and gangway. The oil booms shall be maintained in a usable condition and shall be replaced when no longer functioning properly. EPD staff may inspect the efficacy of the oil booms at any time.
17. Prior to any filling within the 100-year flood zone, a Flood Plain Permit may be required from the Orange County Stormwater Management Division authorizing the fill.
18. The permittee shall notify EPD, in writing, within 30 days of any sale, conveyance, or other transfer of ownership or control of the real property subject to this permit. The permittee shall remain liable for all permit conditions and corrective actions that may be required as a result of any permit violations which occur prior to the transfer of the permit by Orange County to a subsequent owner. If applicable, no permit shall be transferred unless and until adequate financial assurance has been provided and approved by Orange County.
19. For projects which disturb one acre or more of land, or which are less than one acre but are part of a larger common plan of development of sale that is greater than one acre, coverage under a National Pollutant Discharge Elimination System (NPDES) Construction Generic Permit (CGP) is required. Prior to the start of land disturbing activities, which includes demolition, earthwork and/or construction, the operator shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and submit to the Florida Department of Environmental Protection (FDEP) a Notice of Intent (NOI) to obtain coverage under the NPDES CGP, pursuant to the requirements of 62-621.300(4)(a), Florida Administrative Code (F.A.C.) As the Operator of the MS4, a copy of the NOI shall also be submitted to the Orange County NPDES Environmental Program Supervisor prior to the start of activities. Copies of the SWPPP, NOI, and FDEP Acknowledgement Letter are to be kept on the project site and made available upon request. Upon completion of all land disturbing activities and after final stabilization of the site is complete, the developer/contractor shall submit to FDEP a Notice of Termination (NOT) to end their coverage under the CGP and provide a copy of the NOT to the Operator(s) of the MS4. A copy of the CGP, NOI and additional

information can be found at the following website:
<http://dep.state.fl.us/water/stormwater/npdes/construction3.html>.

20. Discharge of groundwater from dewatering operations requires approval from FDEP and the applicable Water Management District. The operator/contractor shall obtain an FDEP Generic Permit for the Discharge of Ground Water from Dewatering Operations pursuant to the requirements of Chapters 62-621.300(2)(a) and 62-620, F.A.C., and Chapter 403 FS. Discharges directed to the County's MS4 require an Orange County Right-of-Way Utilization Permit for Dewatering prior to the start of any discharges.
21. Turbidity and sediment shall be controlled to prevent off-site, unpermitted impacts and violations of water quality standards pursuant to Rules 62-302.500, 62-302.530, and 62-4.242, F.A.C. Best Management Practices (BMPs), as specified in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (2013, or most current version), shall be installed and maintained at all locations where there is the possibility of transferring sediment, turbidity, or other pollutants into wetlands and/or surface waters due to the permitted activities. BMPs are performance based; if selected BMPs are ineffective or if site-specific conditions require additional measures, then the permittee shall implement additional or alternative measures as necessary to prevent adverse impacts to wetlands and/or surface waters. Turbidity discharging from a site must not exceed 29 Nephelometric Turbidity Units (NTU) over background for Class III waters and their tributaries or 0 NTU over background for those surface waters and tributaries designated as Outstanding Florida Waters (OFW).
22. All excess lumber, scrap wood, trash, garbage and similar materials shall be removed from the surface water or wetlands immediately.

General Conditions:

23. Subject to the terms and conditions herein, the permittee is hereby authorized to perform or cause to be performed, the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittee binds itself and its successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities, including without limitation the performance of the required mitigation, are not in accordance with the conditions of the permit, work shall cease and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holder promptly thereafter.
24. Prior to construction, the permittee shall clearly designate the limits of construction on-site. The permittee shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
25. Construction plans shall be submitted to EPD prior to initiating any construction activities for review and approval. The construction plans shall include, but are not limited to, a site plan clearly depicting the dimensions of the boardwalk, floating docks and the location and acreage of the impact and preservation areas.

26. The permittee shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittee shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
27. Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure(s) permitted herein and any such construction is done at the sole risk of the permittee. In the event that any part of the structure(s) permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owner's riparian or other property rights, the permittee agrees to either obtain written consent or to remove the offending structure or encroachment within 60 days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate revocation.
28. This permit does not release the permittee from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 15, Article X of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency the permittee shall comply with the most stringent conditions. The permittee shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.
29. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, the permittee shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
30. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
31. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
32. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to ensure conformity with the plans and specifications approved by the permit.
33. The permittee shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.

34. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee.
35. The permittee agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida, and initiated only in Orange County.
36. Pursuant to Section 125.022 FS, issuance of this permit by the County does not in any way create any rights on the part of the permittee 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 permittee fails to obtain the 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.
37. Pursuant to Section 125.022 FS, the applicant shall obtain all other applicable state or federal permits before commencement of development.

ACTION REQUESTED: Acceptance of the findings and recommendation of the Environmental Protection Division and approval of Conservation Area Impact Permit Modification CAI-15-09-034 for Hamlin Retail Partners East, LLC subject to the conditions listed in the staff report. District 1

JW/DDJ: mg

Attachments

Conservation Area Impact Permit Modification

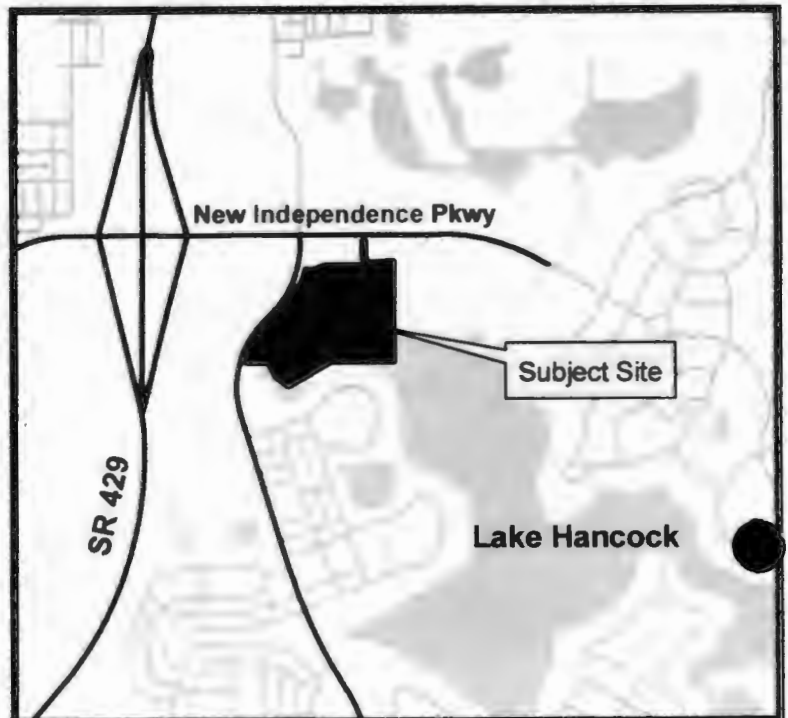


**Conservation Area Impact
Permit Modification
CAI-15-09-034
District #1**

Applicant: Hamlin Retail Partners
East LLC
Address: 14111 Shoreside Way
Parcel IDs: 20-23-27-2713-03-000
20-23-27-2713-04-000

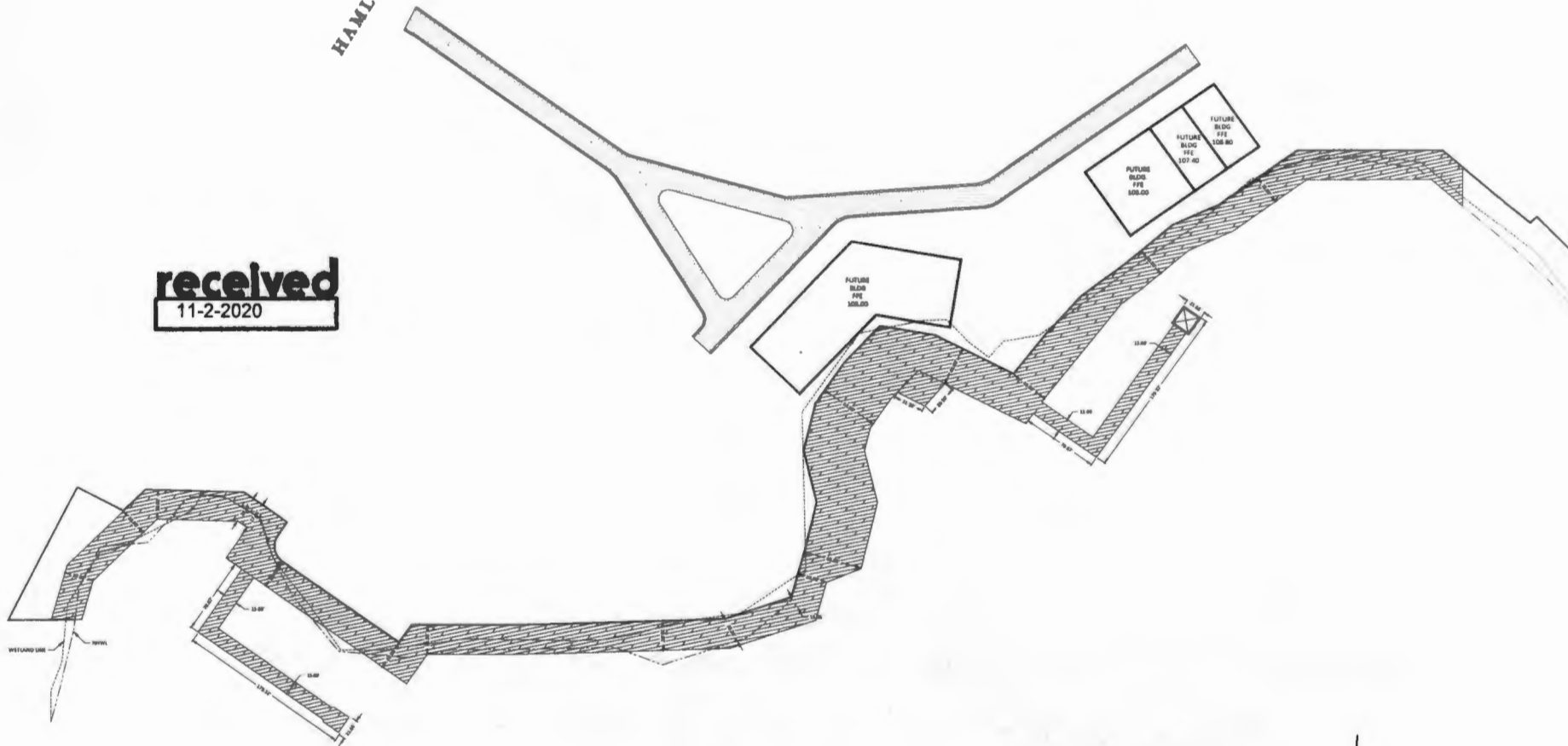
Project Site 

Property Location 



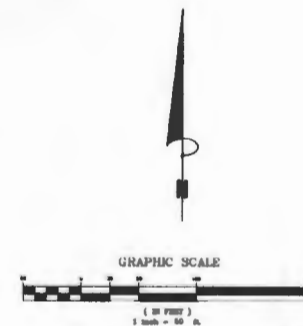
HAMLIN

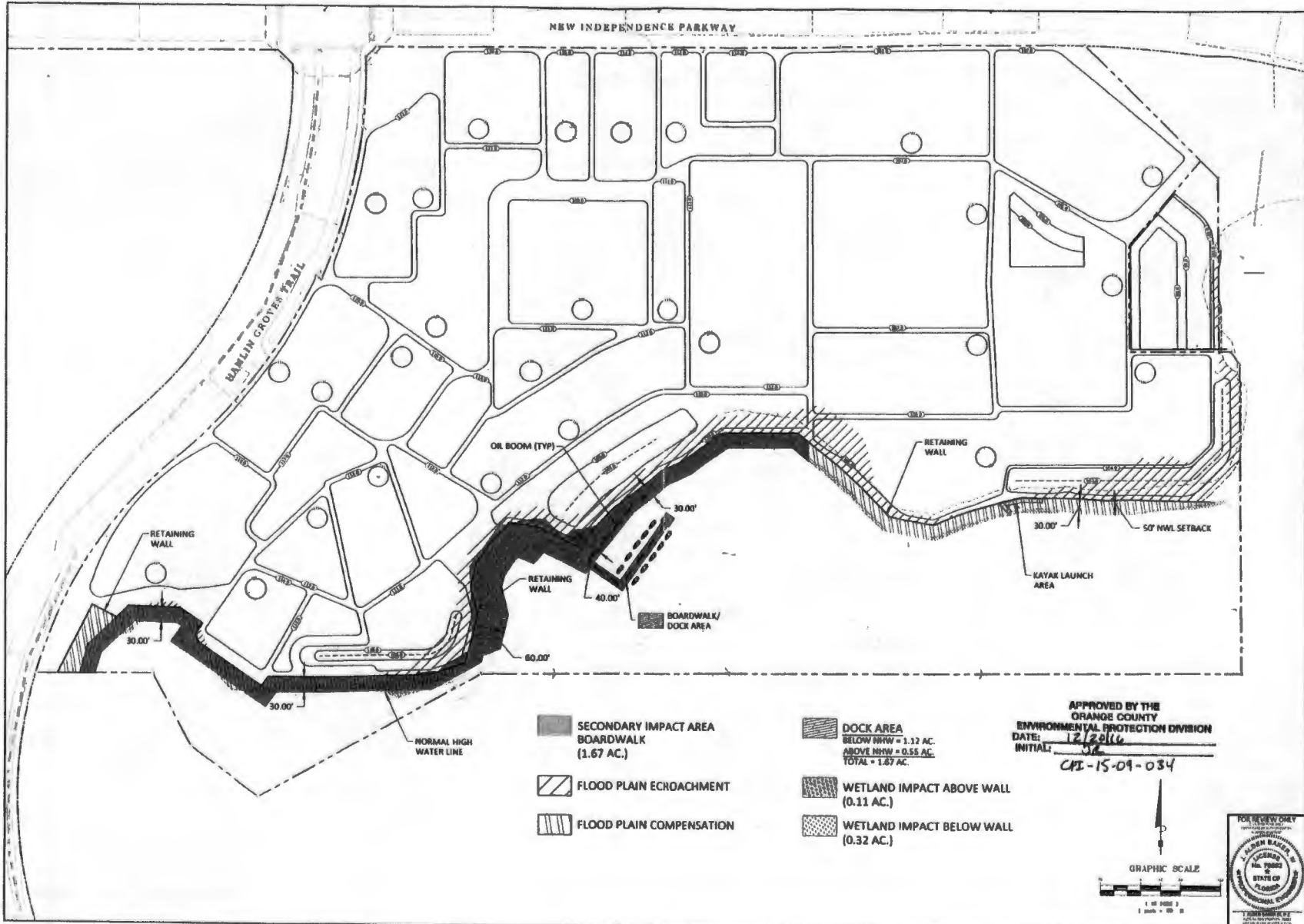
received
11-2-2020









TOTAL DOCK AREA: ± 1.751 AC.
DOCK AREA ABOVE NHWL: ± 0.526 AC.
DOCK AREA BELOW NHWL: ± 1.225 AC.

HAMLIN SEC DOCK EXHIBIT

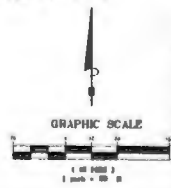




 **SECONDARY IMPACT AREA BOARDWALK**
 (1.67 AC.)
 **FLOOD PLAIN ECRUACHMENT**
 **FLOOD PLAIN COMPENSATION**

 **DOCK AREA**
 BELOW NHW = 1.32 AC.
 ABOVE NHW = 0.55 AC.
 TOTAL = 1.87 AC.
 **WETLAND IMPACT ABOVE WALL**
 (0.11 AC.)
 **WETLAND IMPACT BELOW WALL**
 (0.32 AC.)

APPROVED BY THE
 ORANGE COUNTY
 ENVIRONMENTAL PROTECTION DIVISION
 DATE: 12/20/16
 INITIAL: JG
 CPE-15-09-034



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 KELLY COLLINS & COMPANY, INC.
 1215 W. UNIVERSITY BLVD., SUITE 200
 ORANGE, FL 32801
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PREPARED FOR:
 S.F. IV / BOYD
 HORIZON WEST JV, LLC

HAMLIN SEC
 ORANGE COUNTY, FL

ENVIRONMENTAL
 SITE PLAN

SHEET
 C-1

00590 JW 272016-03-26