

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by the property owner, Lee Health Ventures, Inc., to amend the Commercial Planned Development (CPD) and Development of Regional Impact (DRI) approvals for a project known as Health Park Florida; and

WHEREAS, a public hearing was advertised and held on February 9, 2005, before the Lee County Zoning Hearing Examiner, Diana M. Parker, who gave full consideration to the evidence in the record for Case #'s DRI2004-00007 and DCI2004-00048; and

WHEREAS, a second public hearing was advertised and held on May 2, 2005, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request:

1. to amend the DRI Development Order approvals for HealthPark Florida (DRI# 5-8586-63) to: a) revise the Master Development Plan (Map H) to change the location of various uses within the project; b) modify the Land Use Schedule to reflect increases and decreases in various land uses approved as part of the DRI; c) extend the build-out date by four years to 2012; d) modify transportation related conditions to reflect the results of traffic reassessment; and e) revise the frequency of filing monitoring reports from annually to bi-annually in response to recent amendments to Chapter 380, F.S.; and
2. to evaluate whether the proposed amendments constitute a substantial deviation from the original development order approvals warranting further development of regional impact review; and
3. to amend existing CPD zoning approvals to: a) amend the land use table increasing the number of acute care beds, independent living units, assisted/skilled nursing units, and residential units, with a decrease in office space, commercial spaces, and hotel units; b) change the mix of uses on the approved Master Concept Plan (MCP); c) modify traffic mitigation conditions; d) revise of the Land Use Table consistent with the proposed changes to the DRI; and e) add a deviation related to the overall height of the hospital facility.

The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. All commitments and conditions included in the Health Park Florida DRI Development Order (DRI #5-8586-63), as amended, are hereby included as part of this zoning approval.
2. All conditions of the previous zoning approvals as reflected in Resolutions Z-87-058, Z-98-011, and Z-01-021, and Administrative Amendments PD-90-018, PD-91-018, PD-93-013, PD-96-010, ADD2001-00158, and ADD2003-00087(a) remain in full force and effect, except as specifically amended by the approvals set forth.
3. Development must be consistent with the two-page MCP entitled "Amended Master Concept Plan and Map H," stamped "Received February 8, 2005 Permit Counter" (last revised 2-7-05), except as modified by the conditions below. Development must comply with the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

The project is permitted 1,015,413 square feet (558 beds) of acute care, specialty hospital space, and future health care functions; 465,000 square feet of medical and general office space; 160,000 square feet of general retail space (food and beverage, financial, business and retail services); 478 independent living units; 445 beds of assisted living and skilled nursing care; 1,156 residential dwelling units; and 172 units of lodging. The approved maximum building height within this planned development is 124 feet for the hospital. Appurtenances necessary for mechanical or structure functions of the hospital may extend another 16 feet in height. All other development continues to be limited to a maximum building height of 95 feet.

4. The new approved Schedule of Uses is as follows:

(Note: If the term "Code" plus a letter(s) appears after the use, the use is only permitted in those portions of the development coded for that use)

a. Schedule of Uses

ACCESSORY USES AND STRUCTURES (LDC §§ 34-1171 *et seq.*, 34-2441 *et seq.*, 34-1863, 34-2141 *et seq.*, and 34-3108)

ADMINISTRATIVE OFFICES

AIRCRAFT LANDING FACILITIES, private (LDC § 34-1231 *et seq.*) - limited to a helicopter landing pad for the hospital (Code HOSP)

ANIMALS: Clinic (LDC § 34-1321 *et seq.*) (Code C)

ASSISTED LIVING FACILITY (LDC §§ 34-1491 *et seq.*, and 34-1411) (Code ALU/SNF)

ATM (automatic teller machine)

AUTO PARTS STORE - with or without installation facilities (Code C)

AUTOMOBILE SERVICE STATION - (Code C)

AUTO REPAIR AND SERVICE (LDC § 34-622(c)(2)) - Limited to garages with general automotive repair and service (Code C)

BAIT AND TACKLE SHOP (Code C)
 BANKS AND FINANCIAL ESTABLISHMENTS (LDC § 34-622(c)(3)): Groups I, II
 (Code C)
 BAR OR COCKTAIL LOUNGE (LDC § 34-1261 *et seq.*) (Code C)
 BOATS: Boat parts store (Code C)
 Boat rental (Code C)
 Boat sales (Code C)
 BROADCAST STUDIO, COMMERCIAL RADIO AND TELEVISION (LDC
 § 34-1441 *et seq.*)
 BUSINESS SERVICES (LDC § 34-622(c)(5)): Group I, excluding bail bonding,
 collection agencies, and credit reporting services (Code C)
 BUS STATION/DEPOT (LDC § 34-1381 *et seq.*)
 CAR WASH (Code C)
 CARETAKERS RESIDENCE
 CLOTHING STORES, general (LDC § 34-622(c)(8)) (Code C)
 CLUBS: (Code C)
 Commercial
 Fraternal, membership organization (LDC § 34-2111)
 Private (LDC § 34-2111)
 COMMUNICATION TOWERS
 100 feet or less in height (LDC § 34-1441)
 CONSUMPTION ON PREMISES (LDC § 34-1261 *et seq.*) (Code C)
 CONVENIENCE FOOD AND BEVERAGE STORE (Code C)
 CULTURAL FACILITIES (LDC § 34-622(c)(10))
 DAY CARE CENTER, CHILD, ADULT
 DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE (Code C)
 DRUGSTORE, PHARMACY (Code C and HOSP)
 DWELLING UNIT: (Code ILU, A, C and ALU/SNF)
 Townhouse
 Multiple-family building
 ENTRANCE GATES AND GATEHOUSE (LDC § 34-1741 *et seq.*)
 ESSENTIAL SERVICES (LDC §§ 34-1611 *et seq.*, and 34-1741 *et seq.*)
 ESSENTIAL SERVICE FACILITIES (LDC § 34-622(c)(13)): Group I (LDC
 §§ 34-1611 *et seq.*, 34-1741 *et seq.*, and 34-2141 *et seq.*)
 EXCAVATION: Water retention (LDC § 34-1651)
 FACTORY OUTLETS (point of manufacture only) (Code C)
 FENCES, WALLS (LDC § 34-1741)
 FOOD AND BEVERAGE SERVICE, LIMITED
 FOOD STORES (LDC § 34-622(c)(16)): Group I (Code C)
 FUNERAL HOME AND MORTUARY (with or without a crematory) (Code C)
 GIFT AND SOUVENIR SHOP
 HARDWARE STORE (Code C)
 HEALTH CARE FACILITIES (LDC § 34-622(c)(20)): Groups I, II, III, and IV (Code
 HOSP, C, MGO, SHF, and FHF)
 HELIPORT OR HELISTOP (Code HOSP)
 HOBBY, TOY AND GAME SHOPS (LDC § 34-622(c)(21)) (Code C)
 HOSPICE
 HOTEL/MOTEL (LDC § 34-1801 *et seq.*) (Code C)
 HOUSEHOLD AND OFFICE FURNISHINGS (LDC § 34-622(c)(22)), all groups
 (Code C)
 INSURANCE COMPANIES (LDC § 34-622(c)(23)) (Code C)
 LAUNDRY OR DRY CLEANING (LDC § 34-622(c)(24)): Group I (Code C)
 LAWN AND GARDEN SUPPLY STORES (LDC § 34-2081) (Code C)

LIBRARY
 MEDICAL OFFICE (Code MGO and C)
 MINI-WAREHOUSE (Code C)
 MODELS: Display center (LDC § 34-1951 *et seq.*)
 Model Home (LDC § 34-1951 *et seq.*)
 Model Unit (LDC § 34-1951 *et seq.*)
 NONSTORE RETAILERS (LDC § 34-622(c)(30)), all groups (Code C)
 PACKAGE STORE (LDC § 34-1261 *et seq.*) (Code C)
 PAINT, GLASS AND WALLPAPER (Code C)
 PARKS (LDC § 34-622(c)(32)): Groups I or II
 PARKING LOT:
 Accessory
 Commercial
 Garage, public parking
 Temporary (LDC § 34-2022)
 PERSONAL SERVICES (LDC § 34-622(c)(33)): Groups I, II, III, IV Code C and HOSP)
 PET SERVICES (Code C)
 PET SHOP (Code C)
 PHARMACY (Code C and HOSP)
 PLACE OF WORSHIP (LDC § 34-2051 *et seq.*)
 REAL ESTATE SALES OFFICE, (LDC §§ 34-1951 *et seq.*, and 34-3021)
 RECREATIONAL FACILITIES:
 Personal
 Private, On-Site
 RELIGIOUS FACILITIES (LDC § 34-2051 *et seq.*)
 RENTAL OR LEASING ESTABLISHMENT (LDC § 34-622(c)(39)): Group I and IV
 (LDC § 34-1201 *et seq.*, 34-1352, and 34-3001 *et seq.*) (Code C)
 REPAIR SHOPS (34-622(c)(40)): Groups I and II (Code C)
 RESEARCH AND DEVELOPMENT LABORATORIES (LDC § 34-622(c)(41)): Groups II and IV (Code HOSP, SHF, FHF, and C)
 RESIDENTIAL ACCESSORY USES (LDC § 34-622(c)(42)) (LDC § 34-1171 *et seq.*) (Code ILU, A, and ALU/SNF)
 RESTAURANT, FAST FOOD (Code C)
 RESTAURANTS (LDC § 34-622(c)(43)): All Groups (Code C)
 SCHOOLS: Commercial (LDC § 34-622(c)(45)) (LDC § 34-2381) (Code C)
 SIGNS in accordance with approved Sign Package (dated Dec. 1997 as amended)
 SOCIAL SERVICES (LDC § 34-622(c)(46)): Groups I, II, and III (Code C, HOSP, SHS, and FHF)
 SPECIALTY RETAIL SHOPS (LDC § 34-622(c)(47)): Groups I, II, III, and IV (Code C)

 STORAGE:
 Indoor only, (LDC § 34-3001 *et seq.*)
 Storage, open, (LDC § 34-3001 *et seq.*)
 STUDIOS (LDC § 34-622(c)(49))
 TEMPORARY USES (LDC § 34-3041 *et seq.*)
 TRANSPORTATION SERVICES (LDC § 34-622(c)(53)): Group II (Code C)
 USED MERCHANDISE STORES (LDC § 34-622(c)(54)): Groups I, II, and III (Code C)

b. Site Development Regulations

| USE | MIN. LOT AREA (SF) | MIN. LOT DEPT H (FT) | MIN. LOT WIDTH (FT.) | MIN. SIDE SET- BACK (FT.) | MIN. REAR SET- BACK (FT.) | INTERNAL FRONTAG E ROAD SETBACK (FT.) | WATER BODY SET- BACK (FT.) | BASS ROAD SET- BACK (FT.) | SUMMERLIN ROAD SETBACK (FT.) |
|--------------|-----------------------------|-------------------------------|-------------------------------|---------------------------------------|---------------------------------------|---|--|---------------------------------------|---------------------------------------|
| A.L.F., ETC. | 10,000 | 100 | 100 | 15 | 15 | 20 | 20 | 25 | 25 |
| MULTI-FAMILY | 10,000 | 100 | 100 | 15 | 20 | 20 | 20 | 25 | 25 |
| TOWNHOUSE | 1,400 | 70 | 20 | 5/0 | 4 | 20 | 20 | 25 | 25 |
| COMMERCIAL | 10,000 | 100 | 100 | 15 | 20 | 20 | 20 | 25 | 25 |
| OUTPARCEL | 7,500 | 100 | 75 | 10 | 15 | 20 | 25 | 25 | 25 |

MINIMUM BUILDING SEPARATION DISTANCE: 20 FEET

MAXIMUM STRUCTURAL LOT COVERAGE: 55 PERCENT (TOWNHOUSE: 60 PERCENT)

NOTES:

1. PIE-SHAPED LOTS SHALL HAVE NO MINIMUM LOT WIDTH BUT WILL MEET LOT AREA REQUIREMENTS.
2. SEE LDC §§ 34-1174, 34-1176, 34-2191 AND 34-2194 FOR ACCESSORY STRUCTURAL SETBACKS UNLESS IN CONFLICT WITH ABOVE REGULATIONS.

SECTION C. DEVIATIONS:

All previously approved deviations remain in effect as part of this planned development.

1. Deviation (14) seeks relief from the LDC §34-935(f)(3)b. requirement to provide that, in the Urban Community future land use category, buildings may be as tall as 95 feet above the minimum flood elevation with no more than eight (8) habitable stories; to allow buildings within HealthPark Medical Center to be as tall as 140 feet above minimum flood elevation with no more than eight (8) habitable stories. This DEVIATION IS APPROVED, subject to the condition that it is limited to the medical center (hospital).

SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
Exhibit B: Zoning Map (subject parcel identified with shading)
Exhibit C: Master Concept Plan stamped received February 8, 2005, Permit Counter, last revised February 7, 2005
Exhibit D: Fifth Development Order Amendment for HealthPark Florida DRI

The applicant has indicated that the STRAP numbers for the property are:

| | |
|------------------------|------------------------|
| 04-46-24-02-0000D.0000 | 04-46-24-02-0000G.0000 |
| 04-46-24-04-00000.011A | 04-46-24-04-000M0.0000 |
| 04-46-24-13-00000.0050 | 04-46-24-13-00000.0060 |
| 04-46-24-13-00000.0070 | 04-46-24-13-0000H.0000 |
| 33-45-24-03-0000C.0000 | 33-45-24-03-0000G.0000 |
| 33-45-24-04-00000.0070 | 33-45-24-04-00000.0080 |
| 33-45-24-04-00T00.0000 | 33-45-24-04-00W00.0000 |
| 33-45-24-04-00Y00.0000 | 33-45-24-13-00000.0080 |
| 33-45-24-13-00000.0090 | 33-45-24-13-00000.0100 |
| 33-45-24-13-0000D.0000 | |

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the requested amendments to the CPD zoning approvals by demonstrating compliance with the Lee Plan, the LDC, and other applicable codes and regulations.
2. The amended CPD zoning approval and Master Concept Plan, as conditioned:
 - a. meet or exceed the performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. are consistent with the densities, intensities, and general uses set forth in the Lee Plan; and,
 - c. are compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The approval of this request satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan will be available and adequate to serve the proposed land use.

5. The approved deviation, as conditioned, enhances achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34 to protect the public health, safety, and welfare.
6. The proposed changes to the DRI Development Order approvals do not constitute a substantial deviation from the original development approvals warranting further DRI review.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Judah, seconded by Commissioner Hall, and, upon being put to a vote, the result was as follows:

| | |
|----------------------|-----|
| Robert P. Janes | Aye |
| Douglas R. St. Cerny | Aye |
| Ray Judah | Aye |
| Tammy Hall | Aye |
| John E. Albion | Aye |

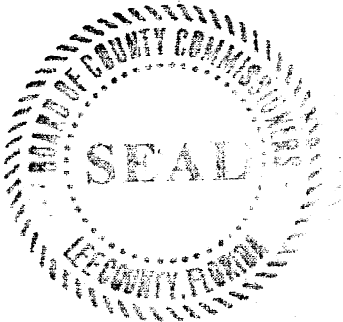
DULY PASSED AND ADOPTED this 2nd day of May 2005.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michele B. Cooper
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Douglas St. Cerny
Chairman



Approved as to form by:

[Signature]
Donna Marie Collins
County Attorney's Office

RECEIVED
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mgc
2005 MAY 13 AM 10:45


EXHIBIT A
Legal Description
Property located in Lee County, F

Page 1 of 2

List of HealthPark Plats

| | |
|------------------------------------|-------------------------|
| HealthPark Florida West | Plat Book 47 at Page 1 |
| Phase I-E, HealthPark Florida West | Plat Book 49 at Page 31 |
| Phase I-F, HealthPark Florida West | Plat Book 53 at Page 81 |
| HealthPark Florida East | Plat Book 68 at Page 17 |
| HealthPark Florida E 2002-1 | Plat Book 73 at Page 80 |

DCI 2004-00048

Applicant's Legal Checked
by  Dec 02, 2004

RECEIVED
JUL 02 2004
ZONING

2

ZONING INTAKE MAP

1/19/2005



EXHIBIT B

1,250 625 0 1,250 Feet

1-
ANT

AG-2
VACANT

EXISTING LAKE 8/C

AG-2
VACANT

CPD
VACANT

2-
ANT

RPD
LAGUNA LAKES
RESIDENTIAL

AMENDED MASTER CONCEPT PLAN
AND MAP H

[illegible]

APPROVED
SIGNATURES
DATE

AG-2
RESIDENTIAL

AG-2
RESIDENTIAL

MMERLIN CROSSINGS

(DEVIATION 9)

| | |
|---------------------------------|-------------|
| 180.2 ACRES X 308 (COMMERCIAL) | 300.7 ACRES |
| 210.6 ACRES X 408 (RESIDENTIAL) | 300.7 ACRES |
| 34.6 ACRES | 300.7 ACRES |

[illegible]

NOTE
EXISTING CASSETS ARE SHOWN ON THE PLAT OF NEAL/PARK FLORIDA WEST RECORDED IN PLAT BOOKS 47/1, 48/1, 49/1, AND 53/1 AND NEAL/PARK FLORIDA EAST RECORDED IN PLAT BOOKS 68/17 AND 73/30, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

HEALTHPARK FLORIDA LAND USES

[illegible]

APPROVED

RECEIVED

The Plan # 00-00-1 of Page 1 of 1
 is subject to conditions in Resolutions 2-02-014
 00-00-1
 FEB 03 2006
 DPT

84000-4002 138

JOHNSON ENGINEERING, INC.

| | | | | | |
|--|----------|----------|----------|------|---------|
| PROJECT NO. | 20002184 | FILE NO. | 11-15-24 | DATE | 08-1987 |
| 2108 JOHNSON STREET, P.O. BOX 1350, FORT MYERS, FLORIDA 33902-9950, PHONE (813) 334-0046 | | | | | |
| ENGINEERS, SURVEYORS AND ECOLOGISTS | | | | | |

EXHIBIT C
Page 1 of 2

EXHIBIT D

**FIFTH DEVELOPMENT ORDER AMENDMENT¹ FOR
HEALTHPARK FLORIDA**

A Development of Regional Impact

State DRI #5-8586-63
County Case #87-03-10-DRI(d)

DEVELOPMENT ORDER

FOR

HEALTHPARK FLORIDA

A DEVELOPMENT OF REGIONAL IMPACT

5-8586-63

LET It be known, that, pursuant to Section 380.06 of the Florida Statutes, the Board of County Commissioners of Lee County, Florida, has heard, at a public hearing convened on the eighth day of June, 1987, the application for development approval for HealthPark Florida, a hospital/commercial/residential/educational development which, after the amendment proposed herein, will consist of approximately Three Hundred Ninety Point Seven (390.7) acres to be developed in accordance with the application filed by Lee Health Care Resources, Inc.; Lee Memorial Hospital, Inc.; Lee County Hospital Board of Directors; and Lee County HealthPark Joint Venture (referred to herein collectively as "Applicant").

WHEREAS, the Board of County Commissioners of Lee County, Florida, (hereinafter, "the Board") considered the report and recommendations of the Southwest Florida Regional Planning Council, Lee County administrative staff, and the documents and comments made upon the record before the Board in a public hearing on the 8th day of June 1987, and after full consideration of those reports, recommendations, comments and documents the Board adopted the *original* development of regional impact development order for HealthPark Florida; and

¹This document represents a compilation of the original DRI Development Order approved on June 8, 1987; the First Development Order Amendment approved on October 13, 1993; and the Second Development Order Amendment approved on March 30, 1998; the third Development Order Amendment approved on August 20, 2001; and the Fourth Development Order Amendment approved on August 19, 2003. Proposed changes to this composite Development Order are also shown, with additions underlined and deletions struck through.

WHEREAS, the development order was subsequently amended for the first time on October 13, 1993 to extend the phasing and build out schedule for the project; and

WHEREAS, in March 1998, Lee Health Ventures, Inc., the owner/developer of HealthPark Florida Development of Regional Impact, amended the development order a second time: 1) to modify the land use schedule; 2) provide for mitigation of hurricane shelter impacts associated with the revised land use schedule; 3) provide for a Land Use Conversion Table to allow minor modifications to the revised land use schedule in the future; 4) delete references to roadway segments that are no longer planned for construction by Lee County; 5) amend the Master Plan for the project; and 6) extend the date until which the project will not be subject to down zoning or intensity reduction so as to be consistent with the modified build out date approved by the Board in the first development order amendment; and

WHEREAS, in January 2001, Lee Health Ventures, Inc., the owner/developer of HealthPark Florida Development of Regional Impact, requested a third amendment to the DRI Development Order to: 1) Modify the land use schedule; 2) amend Map H to reflect the addition of two access points on the east side of Bass Road; 3) revise the project legal description to delete the legal description for Bass Road; 4) extend the phasing and build-out dates for the project; and 5) modify the transportation mitigation conditions based on a traffic reassessment performed in connection with the Notice of Proposed Change; and

WHEREAS, in June 2003, Lee Health Ventures, Inc., doing business as the owner/developer of HealthPark Florida Development of Regional Impact, requested a fourth amendment to the DRI Development Order to revise the Master Development Plan (Map H) to allow for residential development on a 43± acre tract in the northwest corner of the project; and

WHEREAS, in July 2004, Lee Health Ventures, Inc., doing business as the owner/developer of HealthPark Florida Development of Regional Impact, requested a fifth amendment to the DRI Development Order to: 1) revise the Master Development Plan (Map H) to change the location of various uses within the project; 2) modify the Land Use Schedule to reflect increases and decreases in various land uses approved as part of the DRI; 3) extend the build-out date by four years to 2012; 4) modify transportation related conditions to reflect the results of traffic reassessment prepared in conjunction with the Notice of Proposed Change; and 5) revise the frequency of filing monitoring reports from annually to bi-annually in response to recent amendments to Chapter 380, F.S.

WHEREAS, the Southwest Florida Regional Planning Council (RPC) concluded that reassessment of the DRI is not necessary due to the proposed changes not creating a reasonable likelihood of additional regional impacts, or any type of regional impact not previously reviewed by the RPC; and

WHEREAS, pursuant to Florida Statutes Chapter 380.06(19)(f)5., the Board must determine whether the proposed changes require further Development of Regional Impact Review; and

WHEREAS, pursuant to Florida Statutes Chapter 380.06(19)(c)5.c., a proposed change consisting of simultaneous increases and decreases of at least two of the uses within a multi-use Development of Regional Impact that was originally approved with three or more uses is presumed to create a substantial deviation from the original development approvals, but that presumption may be rebutted by clear and convincing evidence; and

WHEREAS, the Board must consider the previous and current proposed changes in deciding whether those changes cumulatively constitute a substantial deviation requiring further Development of Regional Impact review; and

WHEREAS, the Board has reviewed the proposed amendment and finds that, based on the transportation analysis as conditioned herein, the change is not a substantial deviation; and

WHEREAS, the proposed change to the HealthPark Florida DRI Development Order described herein is consistent with the adopted Comprehensive Plan of Lee County and applicable local land development regulations; and

WHEREAS, the proposed change is consistent with the State Comprehensive Plan.

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The project will include ~~606,803~~ 1,015,413 square feet (~~456~~ 558 beds) of acute care, specialty hospital space, and future health care functions; ~~702,000~~ 465,000 square feet of medical and general office space; ~~175,000~~ 160,000 square feet of general retail space (food and beverage, financial, business and retail services); ~~363~~ 478 independent living units; ~~407~~ 445 beds of assisted living and skilled nursing care; ~~968~~ 1,156 residential dwelling units; ~~252~~ and 172 units of (hotel) lodging; ~~and 75,000 square feet of recreational space (wellness center)~~. Buildings in the proposed development will not exceed eight (8) habitable floors. The project will have other such uses as permitted by the CPD category as modified by the Master Concept Plan.

B. The legal description of the property is as follows:

In Section 33, Township 45 South, Range 24 East and Section 4, Township 46 South, Range 24 East, Lee County, Florida: Healthpark Florida West subdivision, Plat Book 47, Pages 1 through 9, less and except Tract "A" of said subdivision for Bass Road; and Phase I-E Healthpark Florida West subdivision, Plat Book 49, Pages 31 through 34; and Phase I-F Healthpark Florida West subdivision, Plat Book 53, Pages 81 through 90; and Healthpark Florida East subdivision, Plat Book 68, Pages 17 through 22; Public Records of Lee County, Florida.

Parcel contains 390.7 acres, more or less.

C. The subject property is presently zoned Commercial Planned Development (CPD), pursuant to the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Land Development Code; and

D. The Application for Development Approval is consistent with the requirements of Section 380.06, Florida Statutes; and

E. The development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and

F. The development does not unreasonably interfere with the achievement of the objectives of an adopted State Land Development Plan applicable to the area; and

G. The original plan of development and all subsequent amendments thereto have been reviewed by the Southwest Florida Regional Planning Council and is the subject of various reports and recommendations adopted by the council and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes; and the proposed development is consistent with the comments and observations of the staff report of the Southwest Florida Regional Planning Council.

H. The development is consistent with the Lee County Comprehensive Plan and Lee County's land development regulations if subject to the conditions contained in this Development Order.

I. Concurrently, with the adoption of this Development Order, the commercial planned development zoning ~~of~~ approvals on the property ~~as~~ will be amended. The Zoning Resolution contains additional details and conditions and also provides for certain deviations from Lee County property development regulations.

J. The proposed conditions below meet the criteria found in Section 380.06(15)(d), Florida Statutes.

II. ACTION ON REQUEST

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting, duly constituted and assembled on May 2, 2005, that the Fifth Development Order Amendment for the HealthPark Florida Development of Regional Impact is hereby APPROVED, subject to the following conditions, restrictions and limitations:

A. DRAINAGE/WATER QUALITY

1. All commitments provided in the A.D.A. and supplemental submittals, with respect to Question 22 (Drainage), are hereby incorporated as conditions to this approval.

2. The developer must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the storm water discharge from the management system until the complete build out of HealthPark Florida. The Developer shall establish the legal entity which will carry out this program after tracts and/or units are sold. This monitoring system will be designed in conjunction with the South Florida Water Management District and will meet that agency's technical requirements.

3. The monitoring program for the wetland area east of Bass Road will address, among other objectives as identified by the Director, whether or not the final water management design should direct any flow to the Hendry Creek watershed.

4. The discharge from the water management system will be via a spreader swale system at the western boundary of the property to Cow Slough. This spreader swale system may require authorization from Lee County for lands owned by Lee County in the East ½ of the NE 1/4 of Section 5, Township 46 S, Range 24 E. Approval of this development order does hereby authorize any necessary water management improvements on County-owned property. The vacation of public rights to former IDD canals within the site may also be necessary.

5. If reclaimed wastewater cannot be obtained for irrigation purposes, then the developer must submit a feasibility study with any water use permit application which explores the utilization of the lowest acceptable quality of groundwater.

6. As a part of its surface water management program, the developer will submit a comprehensive program for the handling and disposal of any hazardous wastes.

7. A regularly scheduled vacuum sweeping program shall be initiated and continued by the ~~applicant~~developer, as a best management practice (b.m.p.).

B. ENERGY

The developer will incorporate, where appropriate in saving energy, the following energy conservation features into all site plans and architectural programs, or ensure that the following features are implemented whenever possible through deed restrictions and/or covenants with successors in title. All applications for site plan approvals and development permits shall be accompanied by a document detailing compliance with these conditions. If deed restrictions or covenants are utilized, such documents shall be approved by the Lee County Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the prior alternative shall be utilized and the following features must be included.

These features are:

1. Provision of a bicycle/pedestrian system connecting all land uses, consistent with Lee County requirements.

2. Provision of bicycle racks or storage facilities in recreational, commercial and residential areas.
3. Cooperation in the locating of bus stops, shelters and other passenger and system accommodations for a transit system to serve the project area.
4. Use of energy-efficient features in window design (e.g., tinting and exterior shading).
5. Installation of energy-efficient appliances and equipment.
6. Use of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Section 553.14, Florida Statutes, except where medical considerations suggest otherwise.
7. Selection of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance and other needs.
8. Planting of native shade trees to provide reasonable shade for all recreation areas, streets and parking areas.
9. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the winter.
10. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.
12. Inclusion of porch/patio areas in residential units.
13. Consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and residents in their efforts to achieve greater energy efficiency in the development.

C. FLOOD PLAIN/HURRICANE EVACUATION

1. The developer must appoint a disaster coordinator experienced in emergency planning and operations to coordinate plan preparation for the entire project. The developer must also provide notice to prospective facility owners or renters that an emergency plan will be developed, consistent with applicable state and local requirements, and annually maintained for their specific facility. Plan development and maintenance will be coordinated with the project's disaster coordinator.

2. The developer must prepare to the satisfaction of the Director of the Lee County Division of Emergency Management, and prior to receiving a certificate of occupancy, an emergency preparedness plan covering the following aspects:

- a. Duties and responsibilities
- b. Plan coordination and activation
- c. Warning and notification
- d. Evacuation of population off-site
- e. In-place sheltering
- f. Off-site sheltering
- g. Transportation
- h. Support Services for in-place and off-site shelter
- i. Security for property and psychiatric patients sheltered off-site
- j. Training
- k. Communications
- l. Continuity of Patient Care on-site and off-site
- m. Damage Assessment
- n. Recovery

The plan shall be approved annually by the Lee County Department of Public Safety, and shall be coordinated with the existing plan for Lee Memorial Hospital.

3. In order to ensure that any structure on the HealthPark site that is planned for storm shelter purposes will be able to withstand a hurricane event, the developer must provide, prior to issuance of building permits, documentation to the Director of the Lee County Division of Emergency Management that those structures will be constructed to withstand wind loads of not less than 140 miles per hour utilizing the methodology described in the Jenkins & Charland, Incorporated report dated April 30, 1987.

4. The developer must implement a current, on-going, annually-updated program to educate residents, patients and staff in the matters of hurricane threat, hurricane planning, evacuation and sheltering.

5. The portions of the project to be used as refuge must have a minimum elevation of 17 feet NGVD. The building(s) used for refuge must be designed and constructed to withstand winds of 140 miles per hour utilizing the methodology described in the Jenkins & Charland, Incorporated report dated April 30, 1987, and be so certified by a licensed engineer. The building(s) must also be constructed with as little exposed glass as possible and must contain emergency power, food, potable water, sanitation facilities, adequate ventilation, medical supplies and communications equipment in sufficient quantities to sustain the refuge for seven days. The communications equipment needs and frequencies will be determined by the Lee County Division of Emergency Management. All emergency support facilities, water, power, sanitation, etc. must be located at a minimum of 17 feet above mean sea level.

6. The developer must construct at least one road connecting the central core of the project with Summerlin Road at the same elevation as Summerlin Road.

7. All first floor building heights must be elevated at least one foot in excess of the 100-year flood level (8 feet NGVD) as provided by the National Flood Insurance Program.

8. The developer must pay a fee-in-lieu of construction for hurricane shelter demand impacts in the amount of either: (1) \$51,554.64, if paid in one lump sum prior to or concurrent with the first building permit for a multi-family, independent living, or hotel/motel unit; or (2) \$46.30 per unit at the time each building permit is obtained for any multi-family, independent living, or hotel/motel unit. If additional county-wide administrative or other fees for hurricane sheltering are adopted in the future by the Board of County Commissioners of Lee County, those other fees will be applied prospectively to the remaining unbuilt units and paid at the time of building permit.

D. TRANSPORTATION

1. Development Phasing/Build out

The traffic impact assessment upon which this Development Order for HealthPark Florida DRI is based assumes expected completion of Phase I on December 31, 2004, and build out of the development on December 31, ~~2008~~ 2012. The traffic impact assessment included the expected impacts of the proposed land uses and phasing schedule shown in Exhibit "A." The Developer may, without further DRI review, convert land uses in accordance with the Land Use Conversion Table attached as Exhibit "C," provided: (a) the conversion does not require an alteration to the Master Concept Plan for the DRI and (b) the Developer gives 30 days notice of all proposed conversions to Lee County, the Southwest Florida Regional Planning Council, and the Florida Department of Community Affairs. All conversions must be identified in the subsequent monitoring report for the project. This condition is not intended to circumvent the thresholds established in Chapter 380 for further DRI review.

2. Bi-Annual Monitoring Program

a. An bi-annual traffic monitoring program performed by traffic engineers engaged by the developer must be established to monitor the development's impact upon the areas's roadways. The monitoring program will be designed in cooperation with the Lee County Department of Transportation and Engineering. The bi-annual monitoring report must contain traffic counts at the following locations: (Traffic counts may be obtained from original machine and manual peak hour counts, Lee County Traffic Volume Reports, Florida Department of Transportation, other ADA developments with similar monitoring requirements and other generally acceptable sources.)

(1) Location

Development

Phase I Phase II (Build out)

(a) All project access points
onto Bass Road, Kelly Road and
A&W Bulb Road

x

x

(b) The intersections of:

Summerlin Road/San Carlos Blvd.

x

x

Summerlin Road/Bass Road

x

x

Summerlin Road/Kelly Road

x

x

Summerlin Road/Winkler Road

x

x

Summerlin Road/Gladiolus Drive

x

x

Summerlin Road/Cypress Lake Drive

x

x

Gladiolus Drive/Winkler Road

x

x

Bass Road/Kelly Road

x

x

(2) The developer or his representative must submit the first monitoring report to the Lee County Engineer, the Southwest Florida Regional Planning Council and the Florida Department of Transportation one year after the issuance of the first certificate of occupancy for HealthPark Florida. Thereafter, reports will be submitted to the agencies ~~listed above~~ bi-annually each year until build out. The purpose of this program is to:

- (a) determine whether or not the traffic levels projected in the ADA are exceeded by actual traffic;
- (b) determine the Project's external trip generation; and
- (c) assist Lee County in determining the proper timing of necessary roadway improvements.

(3) In lieu of the obligation to annually monitor the above intersections, the developer, with the approval of the Lee County Department of Transportation, may contribute to Lee County a one time sum of \$50,000. This contribution will be applied towards expanding the Lee County inventory of permanent count stations by providing permanent count stations at the following intersections.

Summerlin Road/San Carlos Boulevard

Summerlin Road/Gladiolus Drive

Summerlin Road/Cypress Lake Drive

Summerlin Road/Winkler Road

Gladiolus Drive/Winkler Road

(4) The developer has contributed the funding for these permanent count locations identified above. Therefore, the developer will only be obligated to bi-annually monitor the following:

- (a) the development's access points onto Bass Road, Park Royal Drive and Summerlin Road.
- (b) the intersections of:
Summerlin Road/Bass Road
Summerlin Road/ Park Royal Drive
Bass Road/ Park Royal Drive

(5) The traffic impact assessment required in II.D.9.b. may replace the annual traffic monitoring report if it includes the traffic counts and intersection analyses required in section II.D.2.

3. Site Related Intersection Improvements

The developer must, at no cost to Lee County, fund the full costs of the construction of all site related intersection improvements serving HealthPark Florida as deemed necessary by the Lee County Engineer at the Project's access points onto Bass Road, Park Royal Drive and Summerlin Road. At a minimum, the developer must fund the following site related improvements:

- a. Bass Road /South HealthPark Drive:
NB left and right turn lanes.
SB left and right turn lanes.
EB left turn lane and thru/right turn lanes.
WB left turn lane and thru/right turn lanes.
- b. Bass Road /North HealthPark Circle:
NB left and right turn lanes.
SB left and right turn lanes.
EB left turn lane and thru/right turn lanes.
WB left turn lane and thru/right turn lanes.
- c. Bass Road /Park Royal Drive
WB left and thru lanes
SB left turn lane
- d. Summerlin Road/Park Royal Drive
EB (Summerlin Road) left turn lane
WB (Summerlin Road) right turn lane
SB (Park Royal Drive) left and thru lane

The developer is not eligible for credits against road impact fees for construction or dedication of right-of-way associated with improvements that are site related as defined by Chapter Two of the Land Development Code.

4. Site Related Roadway Improvements

a. The developer must construct, at no cost to Lee County, all internal roadways within HealthPark Florida including:

- (1) South HealthPark Drive.
- (2) North HealthPark Circle.
- (3) Park Royal Drive.

b. These roads will remain private roads, maintained privately, unless subsequently dedicated to and accepted by Lee County.

c. The developer is not eligible for credits against road impact fees for construction or dedication of right-of-way associated with the improvements that are site related as defined by Chapter Two of the Land Development Code.

5. Right-of-Way Dedication

a. The developer must dedicate the following ~~right of way~~ right-of-way within or contiguous to HealthPark Florida:

Sufficient right-of-way along the east and west property lines of Bass Road to provide a total of 150 feet of ~~right of way~~ right-of-way.

b. This right-of-way must be dedicated to Lee County as follows:

- (1) Bass Road, 150 feet of right-of-way from Summerlin Road to the northern intersection of West Lee Memorial Parkway with Bass Road at the time of the issuance of the first building permit for HealthPark.
- (2) Bass Road, 150 feet of right-of-way from the northern intersection of West Lee Memorial Parkway with Bass Road to the north property line, at the time of the issuance of the first building permits for future health care parcel A.

c. Credits against road impact fees for right-of-way dedication, if any, must be in accordance with the provisions of Chapter Two of the Land Development Code.

6. Road Impact Fees / Proportionate Share

The original 1987 DRI assessment, and all subsequent amendments to the DRI, confirmed that the payment of road impact fees will fully mitigate the impacts anticipated from the DRI.

- a. Therefore, the developer must pay the Lee County road impact fees in effect at the time building permits are issued for HealthPark Florida. These impact fee payments will represent proportionate share payments for the following roadway and associated intersection improvements identified in the original DRI traffic assessment and all subsequent amendments:

- (1) The addition of two lanes on U.S. 41 from the existing six lane section south of Daniels Road to Sanibel Boulevard.
- (2) The addition of four lanes on McGregor Boulevard from Cypress Lake Drive to A&W Bulb Road (or parallel facility).
- (3) The addition of four lanes on San Carlos Boulevard from Siesta Drive to Indian Parkway.
- (4) The addition of two lanes on Gladiolus Drive from A&W Bulb Road to Summerlin Road.
- (5) The addition of four lanes on Gladiolus Drive from Summerlin Road to the existing four lane section west of U.S. 41 and two lanes from the existing four lane section to U.S. 41.
- (6) The addition of two lanes on Summerlin Road from San Carlos Boulevard to College Parkway.
- (7) The addition of two lanes on Winkler Road from Gladiolus Drive to Cypress Lake Drive.
- (8) The reconstruction of Bass Road and addition of two lanes to Bass Road from Summerlin Road to Gladiolus Drive.
- (9) ~~The four lane extension of Bass Road from Gladiolus Drive to Cypress Lake Drive.~~
- (10) ~~The four lane extension of Bass Road from Gladiolus Drive to Cypress Lake Drive. The two lane extension of Kelly Road from Bass Road to Pine Ridge Road.~~

The addition of two lanes on Six Mile Cypress Parkway from U.S. 41 to Metro Parkway and from Daniels Parkway to Winkler Avenue.

- (10) The addition of two lanes on Summerlin Road (or a parallel facility from Cypress Lake Drive to Boy Scout Drive).

~~(12)~~(11) Intersection improvements at the following locations:

- (a) Summerlin Road/San Carlos Boulevard
- (b) Summerlin Road/Bass Road
- (c) Summerlin Road/~~Kelly Road~~Park Royal Drive
- (d) Summerlin Road/Gladiolus Drive
- (e) Summerlin Road/Cypress Lake Drive
- (f) Gladiolus Drive/Winkler Road
- (g) Gladiolus Drive/Bass Road
- (h) Gladiolus Drive/A&W Bulb Road
- (i) A&W Bulb Road/McGregor Boulevard
- (j) Summerlin Road/Winkler Road
- (k) Bass Road/~~Kelly Road~~Park Royal Drive
- (l) McGregor Blvd/Cypress Lake Drive
- (m) US 41/Gladiolus Drive/Six Mile Cypress Parkway

b. If the Land Development Code provisions governing roads impact fees are repealed, reduced or made unenforceable by court action, the developer of the project will continue to pay, per individual building permit, an amount equivalent to roads impact fees in effect prior to such repeal, reduction or court action.

7. Construction in Lieu of Impact Fees

- a. In lieu of payment of all or portions of road impact fees, the developer with the prior approval of Lee County may construct, or participate in the construction of, portions of, or all of, one or more of the following roadway improvements:

- (1) widening of Gladiolus Drive to four lanes from the existing four lane section west of U.S. 41 to Summerlin Road.
- (2) widening of Gladiolus Drive to four lanes from Summerlin Road to Bass Road.
- (3) improvements to the existing two lanes and the widening of Bass Road to four lanes from Summerlin Road to Gladiolus Drive.

- (4) extension of Kelly Road as four lanes from Summerlin Road to Bass Road.
 - (5) intersection improvements at Summerlin Road/Bass Road, Summerlin Road/Kelly Road, Bass Road/Gladiolus Drive, Summerlin Road/San Carlos Boulevard, and Summerlin Road/Gladiolus Drive.
 - b. Construction in lieu of roads impact fees must be in accordance with the provisions of the roads impact fee regulations in effect at the time of construction and must be acceptable to Lee County and, if applicable, the Florida Department of Transportation.
 - c. The developer's desire and ability to construct or participate in the construction of portions of, or all of, one or more of the above improvements is intended to:
 - (1) substitute for impact fee payments,
 - (2) ensure that roadway construction occurs in a timely fashion to serve this development.
 - d. If undertaken by the developer, the developer will have no obligation for ~~right of way~~ right-of-way acquisition, reconstruction of the existing roadway to County standards, unusual and unexpected utility relocation and the like.
 - e. If the dollar value of such improvements (actual construction or dollar payments) during Phase I exceed roads impact fees, that excess value will be carried over to the next phase of development. In the event that the total dollar value of improvements during build out of HealthPark exceeds road impact fees, HealthPark will be eligible to recapture that excess value through a rebateable agreement that would include, but not be limited to reimbursement from other area developments and County Road Impact Fee revenues.
8. Concurrency
- The project is subject to the Lee County Concurrency Management System for all development.
9. Traffic Reassessment.
- a. Due to the uncertain status of several area roadway improvements including the extension of Bass Road from Gladiolus Drive to Cypress Lake Drive, A

& W Bulb Road from Summerlin Road to Gladiolus Drive, and Kelly Road from Summerlin Road to Pine Ridge Road, and changes to the development mix, the Developer was required to submit for review and approval a traffic reassessment prior to December 31, 2000. This traffic reassessment was submitted and addressed the traffic impacts and mitigation of the HealthPark Phase I (Stage 1) level of development. The reassessment demonstrated that it is appropriate to mitigate the project's traffic impacts through the payment of roads impact fees.

- b. Prior to initiating Phase II (Stage II) level of development, the Developer ~~is~~ was required to submit for review a traffic reassessment of Phase II (Stage II) development. The traffic reassessment, ~~must be~~ was submitted to the Department of Community Affairs, Southwest Florida Regional Planning Council and Lee County, and ~~will be an~~ was equivalent to an update of the developer's ADA assessment of Question 31 in the DRI Questionnaire, using current and up-to-date methodologies. The methodology ~~should be~~ was discussed and agreed upon by the developer and review agencies prior to submittal of the reassessment. The traffic reassessment ~~will~~ documented commitments in approved planning programs to fund future roadway improvements resulting from existing traffic, area developments and HealthPark Florida during the next phase of development, the HealthPark's and other area developments' contributions toward roadway improvements during the previous phase of development, and the HealthPark's obligations to mitigate additional traffic impacts through the next phase of development, if any. Development of land uses in Phases I and II (Exhibit "A") may continue in accordance with this Development Order pending review of this traffic assessment. The referenced traffic assessment was submitted as part of the Notice of Proposed Change filed in 2004 in connection with the Fifth Development Order Amendment. The assessment addressed the traffic impacts and mitigation of the DRI at build out. The 2004 assessment demonstrated that the project's traffic impacts will be fully mitigated through the payment of roads impact fees.

10. Municipal Services Benefit Unit

- a. This Development Order does not exempt this development from participation in the funding, through Municipal Services Benefit Units (MSBU's) or other special assessment districts, of improvements to various State and County arterial and collector roads to the degree to which this development generates demand or is benefitted. If, at that time, this funding is creditable against impact fees, then the appropriate credits will be taken.

E. VEGETATION AND WILDLIFE/WETLANDS

1. All commitments appearing in the A.D.A. and sufficiency responses pertaining to vegetation and wildlife are incorporated as conditions of approval herein.
2. To mitigate the encroachment of wetlands, the developer must create the same vegetation community type elsewhere on site, in accordance with the Master Concept Plan, and such other mitigation requirements as may be imposed as a result of wetland modification east of Bass Road. The areas to be used for the creation of wetlands must be appropriately scraped, contoured and sufficiently planted with the same type wetland vegetation found within the wetland areas encroached upon. Prior to the issuance of a Final Development Order for the site related improvements to Phase I (hereinafter referred to as FDO), the exact extent of encroachment must be field verified by county staff and the developer. A specific wetland creation plan and a timetable must be provided, both subject to approval by the Department of Community Development.
3. Prior to the issuance of a FDO for Phase I (site-related improvements), the developer must provide a detailed water management lake littoral zone creation plan for each segment to be permitted. The plan will be subject to approval by the Department of Community Development.
4. Prior to the issuance of a Certificate of Completion pursuant to the FDO for Phase I (site-related improvements), the developer must restore the natural connection of the wetland preservation area located at the southwestern property corner to Cow Slough by removing the existing north/south ditch and dike and by restoring the natural contour elevations of the area located along the western property boundary adjacent to this wetland preservation area.
5. The developer must remove all exotic vegetation (Brazilian Pepper, Melaleuca and Australian Pine) from each project segment prior to the completion of that segment.
6. Prior to the issuance of a Certificate of Completion pursuant to the FDO for Phase I, the developer must remove the exotic vegetation (Brazilian Pepper, Melaleuca and Australian Pine) located off-site on County owned property within Cow Slough adjacent to the wetland preservation area located at the southwestern property corner. The extent of exotic vegetation removal will be the amount necessary to aid in the reestablishment of the natural connection of this the wetland to Cow Slough and will be mutually agreed upon by county staff and the developer.
7. Prior to the issuance of a Final Order pursuant to the FDO for Phase I (site-related improvements), the developer must submit a proposed maintenance program to control the re-invasion of exotic vegetation (Brazilian Pepper, Melaleuca and Australian Pine) in the wetland preservation areas and the created wetland areas on the HealthPark Florida site. This program must be in effect for a minimum of three (3) years and must be approved by the Department of Community Development.

8. Prior to the issuance of a FDO for Phase I, the developer must provide a specific plan for monitoring the freshwater wetland area located east of Bass Road. This plan must include the methodology for monitoring the wetland with respect to hydrology, vegetation and wildlife habitat and will be subject to approval by the Department of Community Development.

9. The developer must monitor the existing storm water discharge that flows into the Hendry Creek Watershed to determine the appropriate future discharge route. All future coordination must be with the SFWMD, FDER and Lee County.

10. Prior to the issuance of an FDO for each parcel, the developer must submit a wetlands plan for that parcel to Lee County, SFWMD and SWFRPC showing all areas to be preserved within that parcel, all wetland areas to be created within that parcel and the total number of acres of each.

11. The developer must coordinate with appropriate agencies for the relocation of any threatened or endangered species found on the site or outline a program to insure their continued well being.

12. In order to address the recommendation contained in the staff report of the Regional Planning Council, the Master Concept Plan has been redrawn to indicate the relocation of A&W Bulb Road extension to the east of the wetland area.

F. WATER/WASTEWATER

1. The developer will design the buildings and facilities in light of modern water conserving principles. If irrigation from the site must be pumped, studies will be done to utilize the lowest acceptable water quality aquifers.

2. All efforts will be made to utilize public sewage treatment in the area, if available. If not available, on-site sewage treatment facilities will be flood proofed.

3. If a wastewater treatment facility is provided on site, it may be temporary only. If the temporary plant is still in use after 5 years from the date of approval of the final development order, the developer will be subject to review in order to make alternative wastewater treatment services. The Director of the Lee County Department of Community Development may provide for an extension of time for the continuation of the use of the temporary plant, if deemed necessary.

4. The developer will continue to explore the potential of receiving treated spray effluent from Lee County Utilities, in order to meet on-site nonpotable demands.

5. If spray irrigation proves infeasible for the HealthPark site, then the developer must conduct a hydrologic study under the guidance of the SFWMD and Lee County to determine the feasibility of utilizing ground water or surface water for satisfying nonpotable demands.

6. Any wastewater containing hazardous waste will be segregated from everyday wastewater or receive proper on-site pretreatment.

7. The developer must incorporate the use of water conserving devices, as required by State Law (Section 533.14, Florida Statutes).

8. The developer must conduct a phased monitoring program to determine if on-site surface water and groundwater parameters are improving, as a result of plugging on-site abandoned irrigation wells. This monitoring program should be coordinated with the SFWMD.

G. SOLID WASTE

1. If any method of hazardous waste disposal is utilized other than on-site incineration, then the developer must coordinate with Lee County and FDER for the provision of temporary storage/transfer of special and hazardous wastes that are generated by the development.

2. The developer and subsequent occupants of the project shall implement methods of reducing solid waste volume from the project.

3. The developer must identify to local EMS, Fire and Police officials the on-site storage locations and handling and disposal areas of all toxic, hazardous and radioactive materials.

4. All toxic, hazardous and radioactive materials must be stored above the category III SLOSH hurricane flood elevation.

H. GENERAL DEVELOPMENT CONDITIONS

1. The Master ~~Concept Plan of Development~~ (Map H) prepared by Johnson Engineering, dated ~~December 2000~~ February 7, 2005, stamped received by the Permit Counter on February 8, 2005, is incorporated into and made a part of this DRI Development Order. The permitted uses and conditions are shown on the Master Concept Plan corresponding zoning resolution and in this Development Order.

~~2. Although the land uses in Phases I and II have been approved, the developer cannot seek Lee County development order approvals for Phase II land uses until the developer timely submits the traffic reassessment required by Section H.D.9 above.~~

~~3.~~ 2. The existing agricultural uses may continue or be discontinued and continued from time to time until the certificate of occupancy for the acute care hospital is obtained.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS

BE IT FURTHER RESOLVED by the Board of County Commissioners of Lee County, Florida, that:

A. Resolution. This resolution constitutes the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed for HealthPark Florida.

B. Additional Developer Commitments. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby adopted to this Development Order by reference, ~~provided, however, that the date of completion of Phase I is hereby extended to December 31, 2004, and the date of build out for the project is extended to December 31, 2008~~ 2012.

C. Binding Effect. This Development Order is binding upon the applicants and their heirs, assignees or successors in interest. Those portions of this Development Order which clearly apply only to the project developer, including but not limited to the initial construction of capital facilities, may not be construed to be binding upon future residents. It will be binding upon any builder/developer who acquires a tract of land within HealthPark Florida.

D. Reliance. The terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

E. Enforcement. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, must be paid by the defaulting party.

F. Successor Agencies. References to governmental agency will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

G. Severability. If any portion or section of this Development Order is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decisions will not affect the remaining portions or sections of the Development Order, which will remain in full force and effect.

H. Applicability of Regulations. The approval granted by this Development Order is limited. The approval does not obviate the duty of the developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. The approval does

not obviate the duty of the developer to comply with any County Ordinance or other regulations adopted after the effective date of this Development Order.

I. Further Review. Subsequent requests for local development permits will require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

1. A substantial deviation from the terms or conditions of this development order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or the regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council; or

2. An expiration of the period of effectiveness of this development order as provided herein.

Upon a finding that either of the above is present, the Board will order a termination of all development activity until a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

J. Commencement of Physical Development, Build out, and Termination Date. The deadline for commencing physical development under ~~this~~ the original Development Order shall be five (5) years from the date of adoption of the Order, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Board upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. If the developer fails to commence significant physical development of that property identified in this development order within five (5) years from the date of rendition of this Development Order, development approval will terminate and the development will be subject to further consideration. Significant physical development includes obtaining a Certificate of Completion on some substantial portion of the project (e.g., water management system or a major road system). This Development Order will otherwise terminate in twenty (20) years from its approval date, unless an extension is approved. An extension may be granted by the Board of County Commissioners if the project has been developing substantially in conformance with the original plans and approval conditions, and if no substantial adverse impacts not known to the Southwest Florida Regional Planning Council or to Lee County at the time of their review and approval, or arising due to the extension, have been identified. However, an extension of the date of build out of a development by five (5) or more years will be presumed to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by substantial, competent evidence at the public hearing held by Lee County. For the purpose of calculating when a build out date has been exceeded, the time will be tolled during the pendency of administrative and judicial proceedings relating to development permits.

K. Protection of Development Rights. The development will not be subject to down-zoning, unit density reduction, or intensity reduction, until December 31, ~~2008~~ 2012, unless the County demonstrates that substantial changes have occurred in the conditions underlying the approval of this Development Order including, but not limited to, such factors as a finding that the development order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by local government to be essential to the public health, safety and welfare.

L. Assurance of Compliance. The Administrative Director of the Lee County Department of Community Development or his/her designee will be the local official responsible for assuring compliance with this Development Order.

M. Bi-annual Reports. The developer, or his successor(s) in title to the undeveloped portion of the property, must submit an bi-annual report to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State Land Planning Agency, and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission and be consistent with the rules of the State Land Planning Agency. The bi-annual report must contain information specified in Exhibit "B." The first monitoring report must under the original development order was to be submitted to the Administrative Director of the Department of Community Development not later than August 1, 1988, and further reporting was to must be submitted not later than August 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Section 380.06, Florida Statutes, and the developer must inform successors in title to any undeveloped portion of the real property covered by this Development Order.

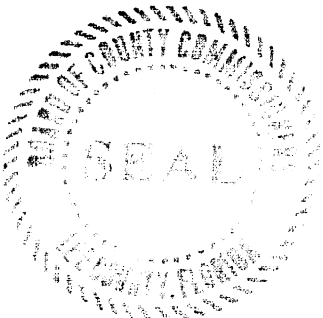
The developer must also submit a Transportation Annual Report in accordance with the provisions set forth in Section II.D. of this development order.

N. Transmittal and Effective Dates. Certified copies of this Development Order will be forwarded to the Southwest Florida Regional Planning Council, the developer and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but is not effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, the developer must record a notice of its adoption in the Office of the Clerk of the Circuit Court as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above resolution was offered by Commissioner Judah, and seconded by Commissioner Hall, and, upon poll of the members present, the vote was as follows:

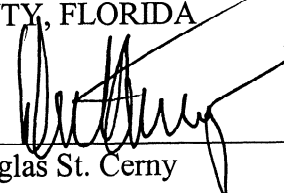
| | |
|------------------------|-----|
| Commissioner Janes | Aye |
| Commissioner St. Cerny | Aye |
| Commissioner Judah | Aye |
| Commissioner Hall | Aye |
| Commissioner Albion | Aye |

DULY PASSED AND ADOPTED this 2nd day of May 2005.



BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By


Douglas St. Cerny
Chairman

ATTEST:


Charlie Green, Clerk

By


Deputy Clerk

APPROVED AS TO FORM

By


Donna Marie Collins
County Attorney's Office

Exhibits:

- A. Land Use and Phasing Table
- B. Bi-Annual Monitoring Report Guidelines
- C. Land Use Conversion Table
- D. Map H.: Master ~~Concept~~ Plan of Development, dated February 7, 2005, stamped received by the Permit Counter on February 8, 2005,

RECEIVED
MINUTES OFFICE
mjc

2005 MAY 13 AM 10:46

EXHIBIT A
HEALTH PARK FLORIDA DRI
(Revised December 2000 2005)

| LAND USE | PHASE I | PHASE II | TOTAL (2012) |
|---|--|---|---|
| <u>Residential</u> | | | |
| Independent Living | 363 du | -0- <u>115</u> du | 363 <u>478</u> du |
| Assisted Living & Skilled Nursing | 407 beds | -0- <u>38</u> beds | 407 <u>445</u> beds |
| Res. Multi-Family | 468 du | 500 <u>688</u> du | 968 <u>1,156</u> du |
| Lodging-motel ¹ | 252 <u>172</u> rooms ¹ | -0- rooms | 252 <u>172</u> rooms |
| <u>Institutional/Office</u> | | | |
| Acute Care Hospital | 220 beds | 220 <u>322</u> beds | 440 <u>542</u> beds |
| Medical & General Office | <u>340,000</u> sq. ft. | 362,000 <u>125,000</u> sq. ft. | (554,603 sq. ft.) <u>702,000 465,000</u> sq. ft. ² |
| Specialized Hospitals & Health Care Facilities | 35,000 sq. ft. 16 beds | -0- sq. ft. -0- beds | 35,000 sq. ft. 16 beds |
| Wellness Center Future Health Care Functions | 75,000 sq. ft. 17,200 sq. ft. | -0- -0- <u>3,600</u> sq. ft. | 75,000 sq. ft. 17,200 <u>20,800</u> sq. ft. |
| <u>Commercial</u> | 100,000 sq. ft. | 75,000 <u>60,000</u> sq. ft. | 175,000 <u>160,000</u> sq. ft. |
| Open Space, Lakes & Water Management | 99.0 ac. | 66.2 ac. | 165.2 ac. |

¹Includes rooms (existing and future) within the Ronald McDonald House.

²~~Includes 340,000 sq. ft. of medical office and 362,000 sq. ft. of general office.~~ Assumed to be medical office for traffic purposes.

EXHIBIT "B"

INFORMATION TO BE INCLUDED IN BI-ANNUAL MONITORING REPORT

- a. Any changes in the plan of development, or in the representations contained in the ADA, or in the phasing for the reporting year and for the next year;
- b. A summary comparison of development activity proposed and actually conducted for the year;
- c. Undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or developer;
- d. Identification and intended use of lands purchased, leased, or optioned by the developer adjacent to the original DRI site since the development order was issued;
- e. An assessment of the developer's and the local government's compliance with the conditions of approval contained in the DRI development order and the commitments which are contained in the Application for Development Approval and which have been identified by the local government, the Regional Planning Council, or the Department of Community Affairs as being significant;
- f. Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year;
- g. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, including type of permit, permit number and purpose of each;
- i. A statement that all persons have been sent copies of the bi-annual report in conformance with Subsection 380.06(14) and (16), Florida Statutes; and
- j. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the developer pursuant to Subsection 380.06(14)(d), Florida Statutes.

EXHIBIT "C"
HEALTHPARK FLORIDA
LAND USE CONVERSION

| | | To Use | | |
|------------------------------------|----------------|----------------|-------------------|--------------------|
| From Use | Medical Office | General Office | Residential Apts. | Specialty Hospital |
| Medical Office (1,000 sq. ft.) | N/A | 3,000 sq. ft. | 7.5 du | N/A |
| General Office (1,000 sq. ft.) | 330 sq. ft. | N/A | 2.4 du | N/A |
| Commercial (1,000 sq. ft.) | 1,200 sq. ft. | 3,400 sq. ft. | 8.5 du | 2.5 beds |
| Future Health Care (1,000 sq. ft.) | N/A | N/A | 3.6 du | 1.1 beds |

| From Use | To Use | | | |
|--------------------------------|---------------------------|--------------------|-------------------------|--------------------------|
| | Independent Living (d.u.) | Multifamily (d.u.) | Lodging - Motel (units) | Medical Office (sq. ft.) |
| Multifamily (d.u.) | 3.3 | 1.0 | 0.8 | 200 |
| Lodging - Motel (units) | 4.1 | 1.2 | 1.0 | 250 |
| Hospital (bed) | 7.8 | 2.3 | 1.9 | 470 |
| Commercial (1,000 sq. ft.) | 31.5 | 9.4 | 7.7 | 1,900 |
| Medical Office (1,000 sq. ft.) | 16.7 | 5.0 | 4.1 | 1,000 |

This transfer of or conversion may occur in accordance with Section II.D.1 provided that: 1) the external trips originally approved for the DRI remain the same (i.e., 3,204 peak hour trips and 34,393 daily trips); and 2) no additional impact will occur to other public facilities (such as sewer and water) and; 3) the conversion will not create a need for additional affordable housing. Further, no alteration to the Master Concept Plan may occur as a result of the conversion. In addition, the amount of square feet, beds and units to be converted to other uses or from other uses would be limited to no more than the following:

EXHIBIT “C”
MAXIMUM CONVERSION THRESHOLDS ¹

| Land Use | Maximum Amount Converted From | Maximum Amount Converted To |
|--|--|--|
| Medical Office | 60,000 sq. ft. | 59,999 sq. ft. |
| General Office | 60,000 sq. ft. | 59,999 sq. ft. |
| Specialty Hospital | 0 beds <u>60 beds</u> | 59 beds <u>N/A</u> |
| Residential Apts. Multifamily | 0 <u>58</u> du | 49 <u>57</u> du |
| Commercial | 50,000 sq. ft. | 49,999 sq. ft. <u>N/A</u> |
| Future Health Care | 50,000 sq. ft. | 49,999 sq. ft. |
| <u>Independent Living</u> | <u>50 du</u> | <u>49 du</u> |
| <u>Lodging - Motel</u> | <u>75 units</u> | <u>74 units</u> |

Footnote:

¹ Purpose of the maximum conversion thresholds is to allow flexibility in development without triggering the need for an amendment to the development approvals. Conversions outside the range will require a formal Notice of Proposed Change to the DRI Development Order.

Thirty (30) days notice of any conversion must be provided to the County, The Regional Planning Council, and The Department of Community Affairs. In addition, the amount of conversion must be reported as part of the subsequent bi-annual monitoring report.

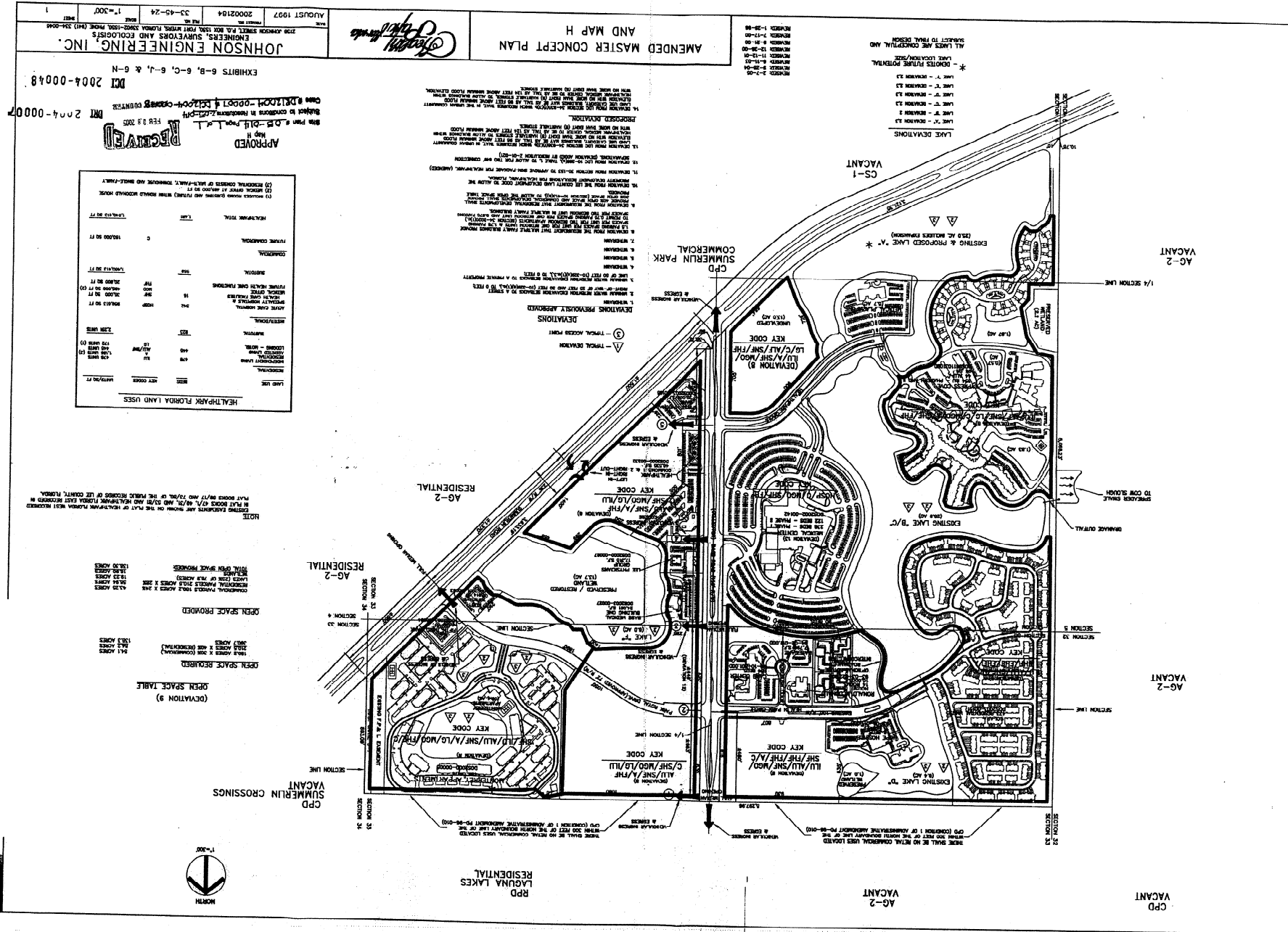


EXHIBIT D

**FIFTH DEVELOPMENT ORDER AMENDMENT¹ FOR
HEALTHPARK FLORIDA**

A Development of Regional Impact

State DRI #5-8586-63
County Case #87-03-10-DRI(d)

DEVELOPMENT ORDER

FOR

HEALTHPARK FLORIDA

A DEVELOPMENT OF REGIONAL IMPACT

5-8586-63

LET It be known, that, pursuant to Section 380.06 of the Florida Statutes, the Board of County Commissioners of Lee County, Florida, has heard, at a public hearing convened on the eighth day of June, 1987, the application for development approval for HealthPark Florida, a hospital/commercial/residential/educational development which, after the amendment proposed herein, will consist of approximately Three Hundred Ninety Point Seven (390.7) acres to be developed in accordance with the application filed by Lee Health Care Resources, Inc.; Lee Memorial Hospital, Inc.; Lee County Hospital Board of Directors; and Lee County HealthPark Joint Venture (referred to herein collectively as "Applicant").

WHEREAS, the Board of County Commissioners of Lee County, Florida, (hereinafter, "the Board") considered the report and recommendations of the Southwest Florida Regional Planning Council, Lee County administrative staff, and the documents and comments made upon the record before the Board in a public hearing on the 8th day of June 1987, and after full consideration of those reports, recommendations, comments and documents the Board adopted the *original* development of regional impact development order for HealthPark Florida; and

¹This document represents a compilation of the original DRI Development Order approved on June 8, 1987; the First Development Order Amendment approved on October 13, 1993; and the Second Development Order Amendment approved on March 30, 1998; the third Development Order Amendment approved on August 20, 2001; and the Fourth Development Order Amendment approved on August 19, 2003. Proposed changes to this composite Development Order are also shown, with additions underlined and deletions struck through.

WHEREAS, the development order was subsequently amended for the first time on October 13, 1993 to extend the phasing and build out schedule for the project; and

WHEREAS, in March 1998, Lee Health Ventures, Inc., the owner/developer of HealthPark Florida Development of Regional Impact, amended the development order a second time: 1) to modify the land use schedule; 2) provide for mitigation of hurricane shelter impacts associated with the revised land use schedule; 3) provide for a Land Use Conversion Table to allow minor modifications to the revised land use schedule in the future; 4) delete references to roadway segments that are no longer planned for construction by Lee County; 5) amend the Master Plan for the project; and 6) extend the date until which the project will not be subject to down zoning or intensity reduction so as to be consistent with the modified build out date approved by the Board in the first development order amendment; and

WHEREAS, in January 2001, Lee Health Ventures, Inc., the owner/developer of HealthPark Florida Development of Regional Impact, requested a third amendment to the DRI Development Order to: 1) Modify the land use schedule; 2) amend Map H to reflect the addition of two access points on the east side of Bass Road; 3) revise the project legal description to delete the legal description for Bass Road; 4) extend the phasing and build-out dates for the project; and 5) modify the transportation mitigation conditions based on a traffic reassessment performed in connection with the Notice of Proposed Change; and

WHEREAS, in June 2003, Lee Health Ventures, Inc., doing business as the owner/developer of HealthPark Florida Development of Regional Impact, requested a fourth amendment to the DRI Development Order to revise the Master Development Plan (Map H) to allow for residential development on a 43± acre tract in the northwest corner of the project; and

WHEREAS, in July 2004, Lee Health Ventures, Inc., doing business as the owner/developer of HealthPark Florida Development of Regional Impact, requested a fifth amendment to the DRI Development Order to: 1) revise the Master Development Plan (Map H) to change the location of various uses within the project; 2) modify the Land Use Schedule to reflect increases and decreases in various land uses approved as part of the DRI; 3) extend the build-out date by four years to 2012; 4) modify transportation related conditions to reflect the results of traffic reassessment prepared in conjunction with the Notice of Proposed Change; and 5) revise the frequency of filing monitoring reports from annually to bi-annually in response to recent amendments to Chapter 380, F.S.

WHEREAS, the Southwest Florida Regional Planning Council (RPC) concluded that reassessment of the DRI is not necessary due to the proposed changes not creating a reasonable likelihood of additional regional impacts, or any type of regional impact not previously reviewed by the RPC; and

WHEREAS, pursuant to Florida Statutes Chapter 380.06(19)(f)5., the Board must determine whether the proposed changes require further Development of Regional Impact Review; and

WHEREAS, pursuant to Florida Statutes Chapter 380.06(19)(e)5.c., a proposed change consisting of simultaneous increases and decreases of at least two of the uses within a multi-use Development of Regional Impact that was originally approved with three or more uses is presumed to create a substantial deviation from the original development approvals, but that presumption may be rebutted by clear and convincing evidence; and

WHEREAS, the Board must consider the previous and current proposed changes in deciding whether those changes cumulatively constitute a substantial deviation requiring further Development of Regional Impact review; and

WHEREAS, the Board has reviewed the proposed amendment and finds that, based on the transportation analysis as conditioned herein, the change is not a substantial deviation; and

WHEREAS, the proposed change to the HealthPark Florida DRI Development Order described herein is consistent with the adopted Comprehensive Plan of Lee County and applicable local land development regulations; and

WHEREAS, the proposed change is consistent with the State Comprehensive Plan.

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The project will include ~~606,803~~ 1,015,413 square feet (~~456~~ 558 beds) of acute care, specialty hospital space, and future health care functions; ~~702,000~~ 465,000 square feet of medical and general office space; ~~175,000~~ 160,000 square feet of general retail space (food and beverage, financial, business and retail services); ~~363~~ 478 independent living units; ~~407~~ 445 beds of assisted living and skilled nursing care; ~~968~~ 1,156 residential dwelling units; ~~252~~ and 172 units of (hotel) lodging; ~~and 75,000 square feet of recreational space (wellness center)~~. Buildings in the proposed development will not exceed eight (8) habitable floors. The project will have other such uses as permitted by the CPD category as modified by the Master Concept Plan.

B. The legal description of the property is as follows:

In Section 33, Township 45 South, Range 24 East and Section 4, Township 46 South, Range 24 East, Lee County, Florida: Healthpark Florida West subdivision, Plat Book 47, Pages 1 through 9, less and except Tract "A" of said subdivision for Bass Road; and Phase I-E Healthpark Florida West subdivision, Plat Book 49, Pages 31 through 34; and Phase I-F Healthpark Florida West subdivision, Plat Book 53, Pages 81 through 90; and Healthpark Florida East subdivision, Plat Book 68, Pages 17 through 22; Public Records of Lee County, Florida.

Parcel contains 390.7 acres, more or less.

C. The subject property is presently zoned Commercial Planned Development (CPD), pursuant to the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Land Development Code; and

D. The Application for Development Approval is consistent with the requirements of Section 380.06, Florida Statutes; and

E. The development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and

F. The development does not unreasonably interfere with the achievement of the objectives of an adopted State Land Development Plan applicable to the area; and

G. The original plan of development and all subsequent amendments thereto have been reviewed by the Southwest Florida Regional Planning Council and is the subject of various reports and recommendations adopted by the council and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes; and the proposed development is consistent with the comments and observations of the staff report of the Southwest Florida Regional Planning Council.

H. The development is consistent with the Lee County Comprehensive Plan and Lee County's land development regulations if subject to the conditions contained in this Development Order.

I. Concurrently, with the adoption of this Development Order, the commercial planned development zoning ~~of~~ approvals on the property ~~as~~ will be amended. The Zoning Resolution contains additional details and conditions and also provides for certain deviations from Lee County property development regulations.

J. The proposed conditions below meet the criteria found in Section 380.06(15)(d), Florida Statutes.

II. ACTION ON REQUEST

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting, duly constituted and assembled on May 2, 2005, that the Fifth Development Order Amendment for the HealthPark Florida Development of Regional Impact is hereby APPROVED, subject to the following conditions, restrictions and limitations:

A. DRAINAGE/WATER QUALITY

1. All commitments provided in the A.D.A. and supplemental submittals, with respect to Question 22 (Drainage), are hereby incorporated as conditions to this approval.

2. The developer must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the storm water discharge from the management system until the complete build out of HealthPark Florida. The Developer shall establish the legal entity which will carry out this program after tracts and/or units are sold. This monitoring system will be designed in conjunction with the South Florida Water Management District and will meet that agency's technical requirements.

3. The monitoring program for the wetland area east of Bass Road will address, among other objectives as identified by the Director, whether or not the final water management design should direct any flow to the Hendry Creek watershed.

4. The discharge from the water management system will be via a spreader swale system at the western boundary of the property to Cow Slough. This spreader swale system may require authorization from Lee County for lands owned by Lee County in the East ½ of the NE 1/4 of Section 5, Township 46 S, Range 24 E. Approval of this development order does hereby authorize any necessary water management improvements on County-owned property. The vacation of public rights to former IDD canals within the site may also be necessary.

5. If reclaimed wastewater cannot be obtained for irrigation purposes, then the developer must submit a feasibility study with any water use permit application which explores the utilization of the lowest acceptable quality of groundwater.

6. As a part of its surface water management program, the developer will submit a comprehensive program for the handling and disposal of any hazardous wastes.

7. A regularly scheduled vacuum sweeping program shall be initiated and continued by the ~~applicant~~developer, as a best management practice (b.m.p.).

B. ENERGY

The developer will incorporate, where appropriate in saving energy, the following energy conservation features into all site plans and architectural programs, or ensure that the following features are implemented whenever possible through deed restrictions and/or covenants with successors in title. All applications for site plan approvals and development permits shall be accompanied by a document detailing compliance with these conditions. If deed restrictions or covenants are utilized, such documents shall be approved by the Lee County Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the prior alternative shall be utilized and the following features must be included.

These features are:

1. Provision of a bicycle/pedestrian system connecting all land uses, consistent with Lee County requirements.

2. Provision of bicycle racks or storage facilities in recreational, commercial and residential areas.

3. Cooperation in the locating of bus stops, shelters and other passenger and system accommodations for a transit system to serve the project area.

4. Use of energy-efficient features in window design (e.g., tinting and exterior shading).

5. Installation of energy-efficient appliances and equipment.

6. Use of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Section 553.14, Florida Statutes, except where medical considerations suggest otherwise.

7. Selection of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance and other needs.

8. Planting of native shade trees to provide reasonable shade for all recreation areas, streets and parking areas.

9. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the winter.

10. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.

11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.

12. Inclusion of porch/patio areas in residential units.

13. Consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and residents in their efforts to achieve greater energy efficiency in the development.

C. FLOOD PLAIN/HURRICANE EVACUATION

1. The developer must appoint a disaster coordinator experienced in emergency planning and operations to coordinate plan preparation for the entire project. The developer must also provide notice to prospective facility owners or renters that an emergency plan will be developed, consistent with applicable state and local requirements, and annually maintained for their specific facility. Plan development and maintenance will be coordinated with the project's disaster coordinator.

2. The developer must prepare to the satisfaction of the Director of the Lee County Division of Emergency Management, and prior to receiving a certificate of occupancy, an emergency preparedness plan covering the following aspects:

- a. Duties and responsibilities
- b. Plan coordination and activation
- c. Warning and notification
- d. Evacuation of population off-site
- e. In-place sheltering
- f. Off-site sheltering
- g. Transportation
- h. Support Services for in-place and off-site shelter
- i. Security for property and psychiatric patients sheltered off-site
- j. Training
- k. Communications
- l. Continuity of Patient Care on-site and off-site
- m. Damage Assessment
- n. Recovery

The plan shall be approved annually by the Lee County Department of Public Safety, and shall be coordinated with the existing plan for Lee Memorial Hospital.

3. In order to ensure that any structure on the HealthPark site that is planned for storm shelter purposes will be able to withstand a hurricane event, the developer must provide, prior to issuance of building permits, documentation to the Director of the Lee County Division of Emergency Management that those structures will be constructed to withstand wind loads of not less than 140 miles per hour utilizing the methodology described in the Jenkins & Charland, Incorporated report dated April 30, 1987.

4. The developer must implement a current, on-going, annually-updated program to educate residents, patients and staff in the matters of hurricane threat, hurricane planning, evacuation and sheltering.

5. The portions of the project to be used as refuge must have a minimum elevation of 17 feet NGVD. The building(s) used for refuge must be designed and constructed to withstand winds of 140 miles per hour utilizing the methodology described in the Jenkins & Charland, Incorporated report dated April 30, 1987, and be so certified by a licensed engineer. The building(s) must also be constructed with as little exposed glass as possible and must contain emergency power, food, potable water, sanitation facilities, adequate ventilation, medical supplies and communications equipment in sufficient quantities to sustain the refuge for seven days. The communications equipment needs and frequencies will be determined by the Lee County Division of Emergency Management. All emergency support facilities, water, power, sanitation, etc. must be located at a minimum of 17 feet above mean sea level.

6. The developer must construct at least one road connecting the central core of the project with Summerlin Road at the same elevation as Summerlin Road.

7. All first floor building heights must be elevated at least one foot in excess of the 100-year flood level (8 feet NGVD) as provided by the National Flood Insurance Program.

8. The developer must pay a fee-in-lieu of construction for hurricane shelter demand impacts in the amount of either: (1) \$51,554.64, if paid in one lump sum prior to or concurrent with the first building permit for a multi-family, independent living, or hotel/motel unit; or (2) \$46.30 per unit at the time each building permit is obtained for any multi-family, independent living, or hotel/motel unit. If additional county-wide administrative or other fees for hurricane sheltering are adopted in the future by the Board of County Commissioners of Lee County, those other fees will be applied prospectively to the remaining unbuilt units and paid at the time of building permit.

D. TRANSPORTATION

1. Development Phasing/Build out

The traffic impact assessment upon which this Development Order for HealthPark Florida DRI is based assumes expected completion of Phase I on December 31, 2004, and build out of the development on December 31, 2008 2012. The traffic impact assessment included the expected impacts of the proposed land uses and phasing schedule shown in Exhibit "A." The Developer may, without further DRI review, convert land uses in accordance with the Land Use Conversion Table attached as Exhibit "C," provided: (a) the conversion does not require an alteration to the Master Concept Plan for the DRI and (b) the Developer gives 30 days notice of all proposed conversions to Lee County, the Southwest Florida Regional Planning Council, and the Florida Department of Community Affairs. All conversions must be identified in the subsequent monitoring report for the project. This condition is not intended to circumvent the thresholds established in Chapter 380 for further DRI review.

2. Bi-Annual Monitoring Program

a. An bi-annual traffic monitoring program performed by traffic engineers engaged by the developer must be established to monitor the development's impact upon the areas's roadways. The monitoring program will be designed in cooperation with the Lee County Department of Transportation and Engineering. The bi-annual monitoring report must contain traffic counts at the following locations: (Traffic counts may be obtained from original machine and manual peak hour counts, Lee County Traffic Volume Reports, Florida Department of Transportation, other ADA developments with similar monitoring requirements and other generally acceptable sources.)

| (1) Location | Development |
|--------------|-----------------------------|
| | Phase IPhase II (Build out) |

X

| | | |
|-----------------------------------|---|---|
| Summerlin Road/San Carlos Blvd. | x | x |
| Summerlin Road/Bass Road | x | x |
| Summerlin Road/Kelly Road | x | x |
| Summerlin Road/Winkler Road | x | x |
| Summerlin Road/Gladiolus Drive | x | x |
| Summerlin Road/Cypress Lake Drive | x | x |
| Gladiolus Drive/Winkler Road | x | x |
| Bass Road/Kelly Road | x | x |

- (a) determine whether or not the traffic levels projected in the ADA are exceeded by actual traffic;
- (b) determine the Project's external trip generation; and
- (c) assist Lee County in determining the proper timing of necessary roadway improvements.

Summerlin Road/San Carlos Boulevard
Summerlin Road/Gladiolus Drive
Summerlin Road/Cypress Lake Drive
Summerlin Road/Winkler Road
Gladiolus Drive/Winkler Road

(4) The developer has contributed the funding for these permanent count locations identified above. Therefore, the developer will only be obligated to bi-annually monitor the following:

- (a) the development's access points onto Bass Road, Park Royal Drive and Summerlin Road.
- (b) the intersections of:
Summerlin Road/Bass Road
Summerlin Road/ Park Royal Drive
Bass Road/ Park Royal Drive

(5) The traffic impact assessment required in II.D.9.b. may replace the annual traffic monitoring report if it includes the traffic counts and intersection analyses required in section II.D.2.

3. Site Related Intersection Improvements

The developer must, at no cost to Lee County, fund the full costs of the construction of all site related intersection improvements serving HealthPark Florida as deemed necessary by the Lee County Engineer at the Project's access points onto Bass Road, Park Royal Drive and Summerlin Road. At a minimum, the developer must fund the following site related improvements:

- a. Bass Road /South HealthPark Drive:
NB left and right turn lanes.
SB left and right turn lanes.
EB left turn lane and thru/right turn lanes.
WB left turn lane and thru/right turn lanes.
- b. Bass Road /North HealthPark Circle:
NB left and right turn lanes.
SB left and right turn lanes.
EB left turn lane and thru/right turn lanes.
WB left turn lane and thru/right turn lanes.
- c. Bass Road /Park Royal Drive
WB left and thru lanes
SB left turn lane
- d. Summerlin Road/Park Royal Drive
EB (Summerlin Road) left turn lane
WB (Summerlin Road) right turn lane
SB (Park Royal Drive) left and thru lane

The developer is not eligible for credits against road impact fees for construction or dedication of right-of-way associated with improvements that are site related as defined by Chapter Two of the Land Development Code.

4. Site Related Roadway Improvements

a. The developer must construct, at no cost to Lee County, all internal roadways within HealthPark Florida including:

- (1) South HealthPark Drive.
- (2) North HealthPark Circle.
- (3) Park Royal Drive.

b. These roads will remain private roads, maintained privately, unless subsequently dedicated to and accepted by Lee County.

c. The developer is not eligible for credits against road impact fees for construction or dedication of right-of-way associated with the improvements that are site related as defined by Chapter Two of the Land Development Code.

5. Right-of-Way Dedication

a. The developer must dedicate the following ~~right-of-way~~ right-of-way within or contiguous to HealthPark Florida:

Sufficient right-of-way along the east and west property lines of Bass Road to provide a total of 150 feet of ~~right-of-way~~ right-of-way.

b. This right-of-way must be dedicated to Lee County as follows:

- (1) Bass Road, 150 feet of right-of-way from Summerlin Road to the northern intersection of West Lee Memorial Parkway with Bass Road at the time of the issuance of the first building permit for HealthPark.
- (2) Bass Road, 150 feet of right-of-way from the northern intersection of West Lee Memorial Parkway with Bass Road to the north property line, at the time of the issuance of the first building permits for future health care parcel A.

c. Credits against road impact fees for right-of-way dedication, if any, must be in accordance with the provisions of Chapter Two of the Land Development Code.

6. Road Impact Fees / Proportionate Share

The original 1987 DRI assessment, and all subsequent amendments to the DRI, confirmed that the payment of road impact fees will fully mitigate the impacts anticipated from the DRI.

a. Therefore, the developer must pay the Lee County road impact fees in effect at the time building permits are issued for HealthPark Florida. These impact fee payments will represent proportionate share payments for the following roadway and associated intersection improvements identified in the original DRI traffic assessment and all subsequent amendments:

- (1) The addition of two lanes on U.S. 41 from the existing six lane section south of Daniels Road to Sanibel Boulevard.
- (2) The addition of four lanes on McGregor Boulevard from Cypress Lake Drive to A&W Bulb Road (or parallel facility).
- (3) The addition of four lanes on San Carlos Boulevard from Siesta Drive to Indian Parkway.
- (4) The addition of two lanes on Gladiolus Drive from A&W Bulb Road to Summerlin Road.
- (5) The addition of four lanes on Gladiolus Drive from Summerlin Road to the existing four lane section west of U.S. 41 and two lanes from the existing four lane section to U.S. 41.
- (6) The addition of two lanes on Summerlin Road from San Carlos Boulevard to College Parkway.
- (7) The addition of two lanes on Winkler Road from Gladiolus Drive to Cypress Lake Drive.
- (8) The reconstruction of Bass Road and addition of two lanes to Bass Road from Summerlin Road to Gladiolus Drive.
- (9) ~~The four lane extension of Bass Road from Gladiolus Drive to Cypress Lake Drive.~~
- (10) ~~The four lane extension of Bass Road from Gladiolus Drive to Cypress Lake Drive. The two lane extension of Kelly Road from Bass Road to Pine Ridge Road.~~

The addition of two lanes on Six Mile Cypress Parkway from U.S. 41 to Metro Parkway and from Daniels Parkway to Winkler Avenue.

- (10) The addition of two lanes on Summerlin Road (or a parallel facility from Cypress Lake Drive to Boy Scout Drive).

~~(12)~~(11) Intersection improvements at the following locations:

- (a) Summerlin Road/San Carlos Boulevard
- (b) Summerlin Road/Bass Road
- (c) Summerlin Road/~~Kelly Road~~Park Royal Drive
- (d) Summerlin Road/Gladiolus Drive
- (e) Summerlin Road/Cypress Lake Drive
- (f) Gladiolus Drive/Winkler Road
- (g) Gladiolus Drive/Bass Road
- (h) Gladiolus Drive/A&W Bulb Road
- (i) A&W Bulb Road/McGregor Boulevard
- (j) Summerlin Road/Winkler Road
- (k) Bass Road/~~Kelly Road~~Park Royal Drive
- (l) McGregor Blvd/Cypress Lake Drive
- (m) US 41/Gladiolus Drive/Six Mile Cypress Parkway

b. If the Land Development Code provisions governing roads impact fees are repealed, reduced or made unenforceable by court action, the developer of the project will continue to pay, per individual building permit, an amount equivalent to roads impact fees in effect prior to such repeal, reduction or court action.

7. Construction in Lieu of Impact Fees

- a. In lieu of payment of all or portions of road impact fees, the developer with the prior approval of Lee County may construct, or participate in the construction of, portions of, or all of, one or more of the following roadway improvements:

- (1) widening of Gladiolus Drive to four lanes from the existing four lane section west of U.S. 41 to Summerlin Road.
- (2) widening of Gladiolus Drive to four lanes from Summerlin Road to Bass Road.
- (3) improvements to the existing two lanes and the widening of Bass Road to four lanes from Summerlin Road to Gladiolus Drive.

- (4) extension of Kelly Road as four lanes from Summerlin Road to Bass Road.
 - (5) intersection improvements at Summerlin Road/Bass Road, ~~Summerlin Road/Kelly Road~~, Bass Road/Gladiolus Drive, Summerlin Road/San Carlos Boulevard, and Summerlin Road/Gladiolus Drive.
 - b. Construction in lieu of roads impact fees must be in accordance with the provisions of the roads impact fee regulations in effect at the time of construction and must be acceptable to Lee County and, if applicable, the Florida Department of Transportation.
 - c. The developer's desire and ability to construct or participate in the construction of portions of, or all of, one or more of the above improvements is intended to:
 - (1) substitute for impact fee payments,
 - (2) ensure that roadway construction occurs in a timely fashion to serve this development.
 - d. If undertaken by the developer, the developer will have no obligation for ~~right of way~~ right-of-way acquisition, reconstruction of the existing roadway to County standards, unusual and unexpected utility relocation and the like.
 - e. If the dollar value of such improvements (actual construction or dollar payments) during Phase I exceed roads impact fees, that excess value will be carried over to the next phase of development. In the event that the total dollar value of improvements during build out of HealthPark exceeds road impact fees, HealthPark will be eligible to recapture that excess value through a rebateable agreement that would include, but not be limited to reimbursement from other area developments and County Road Impact Fee revenues.
- 8. Concurrency

The project is subject to the Lee County Concurrency Management System for all development.
- 9. Traffic Reassessment.
 - a. Due to the uncertain status of several area roadway improvements including the extension of Bass Road from Gladiolus Drive to Cypress Lake Drive, A

& W Bulb Road from Summerlin Road to Gladiolus Drive, and Kelly Road from Summerlin Road to Pine Ridge Road, and changes to the development mix, the Developer was required to submit for review and approval a traffic reassessment prior to December 31, 2000. This traffic reassessment was submitted and addressed the traffic impacts and mitigation of the HealthPark Phase I (Stage 1) level of development. The reassessment demonstrated that it is appropriate to mitigate the project's traffic impacts through the payment of roads impact fees.

- b. Prior to initiating Phase II (Stage II) level of development, the Developer ~~is~~ was required to submit for review a traffic reassessment of Phase II (Stage II) development. The traffic reassessment, ~~must be~~ was submitted to the Department of Community Affairs, Southwest Florida Regional Planning Council and Lee County, and ~~will be an~~ was equivalent to an update of the developer's ADA assessment of Question 31 in the DRI Questionnaire, using current and up-to-date methodologies. The methodology ~~should be~~ was discussed and agreed upon by the developer and review agencies prior to submittal of the reassessment. The traffic reassessment ~~will~~ documented commitments in approved planning programs to fund future roadway improvements resulting from existing traffic, area developments and HealthPark Florida during the next phase of development, the HealthPark's and other area developments' contributions toward roadway improvements during the previous phase of development, and the HealthPark's obligations to mitigate additional traffic impacts through the next phase of development, if any. Development of land uses in Phases I and II (Exhibit "A") may continue in accordance with this Development Order pending review of this traffic assessment. The referenced traffic assessment was submitted as part of the Notice of Proposed Change filed in 2004 in connection with the Fifth Development Order Amendment. The assessment addressed the traffic impacts and mitigation of the DRI at build out. The 2004 assessment demonstrated that the project's traffic impacts will be fully mitigated through the payment of roads impact fees.

10. Municipal Services Benefit Unit

- a. This Development Order does not exempt this development from participation in the funding, through Municipal Services Benefit Units (MSBU's) or other special assessment districts, of improvements to various State and County arterial and collector roads to the degree to which this development generates demand or is benefitted. If, at that time, this funding is creditable against impact fees, then the appropriate credits will be taken.

E. VEGETATION AND WILDLIFE/WETLANDS

1. All commitments appearing in the A.D.A. and sufficiency responses pertaining to vegetation and wildlife are incorporated as conditions of approval herein.

2. To mitigate the encroachment of wetlands, the developer must create the same vegetation community type elsewhere on site, in accordance with the Master Concept Plan, and such other mitigation requirements as may be imposed as a result of wetland modification east of Bass Road. The areas to be used for the creation of wetlands must be appropriately scraped, contoured and sufficiently planted with the same type wetland vegetation found within the wetland areas encroached upon. Prior to the issuance of a Final Development Order for the site related improvements to Phase I (hereinafter referred to as FDO), the exact extent of encroachment must be field verified by county staff and the developer. A specific wetland creation plan and a timetable must be provided, both subject to approval by the Department of Community Development.

3. Prior to the issuance of a FDO for Phase I (site-related improvements), the developer must provide a detailed water management lake littoral zone creation plan for each segment to be permitted. The plan will be subject to approval by the Department of Community Development.

4. Prior to the issuance of a Certificate of Completion pursuant to the FDO for Phase I (site-related improvements), the developer must restore the natural connection of the wetland preservation area located at the southwestern property corner to Cow Slough by removing the existing north/south ditch and dike and by restoring the natural contour elevations of the area located along the western property boundary adjacent to this wetland preservation area.

5. The developer must remove all exotic vegetation (Brazilian Pepper, Melaleuca and Australian Pine) from each project segment prior to the completion of that segment.

6. Prior to the issuance of a Certificate of Completion pursuant to the FDO for Phase I, the developer must remove the exotic vegetation (Brazilian Pepper, Melaleuca and Australian Pine) located off-site on County owned property within Cow Slough adjacent to the wetland preservation area located at the southwestern property corner. The extent of exotic vegetation removal will be the amount necessary to aid in the reestablishment of the natural connection of this the wetland to Cow Slough and will be mutually agreed upon by county staff and the developer.

7. Prior to the issuance of a Final Order pursuant to the FDO for Phase I (site-related improvements), the developer must submit a proposed maintenance program to control the re-invasion of exotic vegetation (Brazilian Pepper, Melaleuca and Australian Pine) in the wetland preservation areas and the created wetland areas on the HealthPark Florida site. This program must be in effect for a minimum of three (3) years and must be approved by the Department of Community Development.

8. Prior to the issuance of a FDO for Phase I, the developer must provide a specific plan for monitoring the freshwater wetland area located east of Bass Road. This plan must include the methodology for monitoring the wetland with respect to hydrology, vegetation and wildlife habitat and will be subject to approval by the Department of Community Development.

9. The developer must monitor the existing storm water discharge that flows into the Hendry Creek Watershed to determine the appropriate future discharge route. All future coordination must be with the SFWMD, FDER and Lee County.

10. Prior to the issuance of an FDO for each parcel, the developer must submit a wetlands plan for that parcel to Lee County, SFWMD and SWFRPC showing all areas to be preserved within that parcel, all wetland areas to be created within that parcel and the total number of acres of each.

11. The developer must coordinate with appropriate agencies for the relocation of any threatened or endangered species found on the site or outline a program to insure their continued well being.

12. In order to address the recommendation contained in the staff report of the Regional Planning Council, the Master Concept Plan has been redrawn to indicate the relocation of A&W Bulb Road extension to the east of the wetland area.

F. WATER/WASTEWATER

1. The developer will design the buildings and facilities in light of modern water conserving principles. If irrigation from the site must be pumped, studies will be done to utilize the lowest acceptable water quality aquifers.

2. All efforts will be made to utilize public sewage treatment in the area, if available. If not available, on-site sewage treatment facilities will be flood proofed.

3. If a wastewater treatment facility is provided on site, it may be temporary only. If the temporary plant is still in use after 5 years from the date of approval of the final development order, the developer will be subject to review in order to make alternative wastewater treatment services. The Director of the Lee County Department of Community Development may provide for an extension of time for the continuation of the use of the temporary plant, if deemed necessary.

4. The developer will continue to explore the potential of receiving treated spray effluent from Lee County Utilities, in order to meet on-site nonpotable demands.

5. If spray irrigation proves infeasible for the HealthPark site, then the developer must conduct a hydrologic study under the guidance of the SFWMD and Lee County to determine the feasibility of utilizing ground water or surface water for satisfying nonpotable demands.

6. Any wastewater containing hazardous waste will be segregated from everyday wastewater or receive proper on-site pretreatment.

7. The developer must incorporate the use of water conserving devices, as required by State Law (Section 533.14, Florida Statutes).

8. The developer must conduct a phased monitoring program to determine if on-site surface water and groundwater parameters are improving, as a result of plugging on-site abandoned irrigation wells. This monitoring program should be coordinated with the SFWMD.

G. SOLID WASTE

1. If any method of hazardous waste disposal is utilized other than on-site incineration, then the developer must coordinate with Lee County and FDER for the provision of temporary storage/transfer of special and hazardous wastes that are generated by the development.

2. The developer and subsequent occupants of the project shall implement methods of reducing solid waste volume from the project.

3. The developer must identify to local EMS, Fire and Police officials the on-site storage locations and handling and disposal areas of all toxic, hazardous and radioactive materials.

4. All toxic, hazardous and radioactive materials must be stored above the category III SLOSH hurricane flood elevation.

H. GENERAL DEVELOPMENT CONDITIONS

1. The Master Concept Plan of Development (Map H) prepared by Johnson Engineering, dated ~~December 2000~~ February 7, 2005, stamped received by the Permit Counter on February 8, 2005, is incorporated into and made a part of this DRI Development Order. The permitted uses and conditions are shown on the Master Concept Plan corresponding zoning resolution and in this Development Order.

~~2. Although the land uses in Phases I and II have been approved, the developer cannot seek Lee County development order approvals for Phase II land uses until the developer timely submits the traffic reassessment required by Section H.D.9 above.~~

~~3.~~ 2. The existing agricultural uses may continue or be discontinued and continued from time to time until the certificate of occupancy for the acute care hospital is obtained.

III. LEGAL EFFECT AND LIMITATIONS OF THIS
DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS

BE IT FURTHER RESOLVED by the Board of County Commissioners of Lee County, Florida, that:

A. Resolution. This resolution constitutes the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed for HealthPark Florida.

B. Additional Developer Commitments. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby adopted to this Development Order by reference, provided, however, that the date of completion of Phase I is hereby extended to December 31, 2004, and the date of build out for the project is extended to December 31, 2008 2012.

C. Binding Effect. This Development Order is binding upon the applicants and their heirs, assignees or successors in interest. Those portions of this Development Order which clearly apply only to the project developer, including but not limited to the initial construction of capital facilities, may not be construed to be binding upon future residents. It will be binding upon any builder/developer who acquires a tract of land within HealthPark Florida.

D. Reliance. The terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

E. Enforcement. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, must be paid by the defaulting party.

F. Successor Agencies. References to governmental agency will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

G. Severability. If any portion or section of this Development Order is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decisions will not affect the remaining portions or sections of the Development Order, which will remain in full force and effect.

H. Applicability of Regulations. The approval granted by this Development Order is limited. The approval does not obviate the duty of the developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. The approval does

not obviate the duty of the developer to comply with any County Ordinance or other regulations adopted after the effective date of this Development Order.

I. Further Review. Subsequent requests for local development permits will require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

1. A substantial deviation from the terms or conditions of this development order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or the regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council; or

2. An expiration of the period of effectiveness of this development order as provided herein.

Upon a finding that either of the above is present, the Board will order a termination of all development activity until a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

J. Commencement of Physical Development, Build out, and Termination Date. The deadline for commencing physical development under ~~this~~ the original Development Order shall be five (5) years from the date of adoption of the Order, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Board upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. If the developer fails to commence significant physical development of that property identified in this development order within five (5) years from the date of rendition of this Development Order, development approval will terminate and the development will be subject to further consideration. Significant physical development includes obtaining a Certificate of Completion on some substantial portion of the project (e.g., water management system or a major road system). This Development Order will otherwise terminate in twenty (20) years from its approval date, unless an extension is approved. An extension may be granted by the Board of County Commissioners if the project has been developing substantially in conformance with the original plans and approval conditions, and if no substantial adverse impacts not known to the Southwest Florida Regional Planning Council or to Lee County at the time of their review and approval, or arising due to the extension, have been identified. However, an extension of the date of build out of a development by five (5) or more years will be presumed to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by substantial, competent evidence at the public hearing held by Lee County. For the purpose of calculating when a build out date has been exceeded, the time will be tolled during the pendency of administrative and judicial proceedings relating to development permits.

K. Protection of Development Rights. The development will not be subject to down-zoning, unit density reduction, or intensity reduction, until December 31, ~~2008~~ 2012, unless the County demonstrates that substantial changes have occurred in the conditions underlying the approval of this Development Order including, but not limited to, such factors as a finding that the development order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by local government to be essential to the public health, safety and welfare.

L. Assurance of Compliance. The Administrative Director of the Lee County Department of Community Development or his/her designee will be the local official responsible for assuring compliance with this Development Order.

M. Bi-annual Reports. The developer, or his successor(s) in title to the undeveloped portion of the property, must submit an bi-annual report to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State Land Planning Agency, and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission and be consistent with the rules of the State Land Planning Agency. The bi-annual report must contain information specified in Exhibit "B." The first monitoring report must under the original development order was to be submitted to the Administrative Director of the Department of Community Development not later than August 1, 1988, and further reporting was to must be submitted not later than August 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Section 380.06, Florida Statutes, and the developer must inform successors in title to any undeveloped portion of the real property covered by this Development Order.

The developer must also submit a Transportation Annual Report in accordance with the provisions set forth in Section II.D. of this development order.

N. Transmittal and Effective Dates. Certified copies of this Development Order will be forwarded to the Southwest Florida Regional Planning Council, the developer and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but is not effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, the developer must record a notice of its adoption in the Office of the Clerk of the Circuit Court as provided in Chapter 380, Florida Statutes.

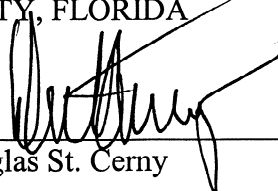
THE MOTION TO ADOPT the above resolution was offered by Commissioner Judah, and seconded by Commissioner Hall, and, upon poll of the members present, the vote was as follows:

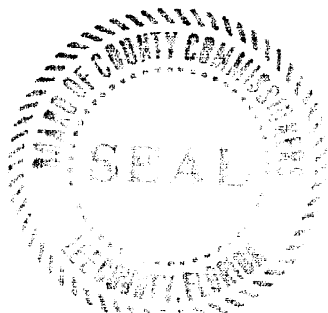
| | |
|------------------------|-----|
| Commissioner Janes | Aye |
| Commissioner St. Cerny | Aye |
| Commissioner Judah | Aye |
| Commissioner Hall | Aye |
| Commissioner Albion | Aye |

DULY PASSED AND ADOPTED this 2nd day of May 2005.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By


Douglas St. Cerny
Chairman

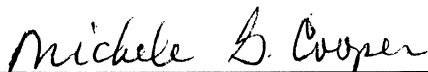


ATTEST:

Charlie Green, Clerk

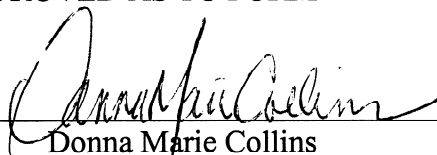
APPROVED AS TO FORM

By



Deputy Clerk

By



Donna Marie Collins
County Attorney's Office

Exhibits:

- A. Land Use and Phasing Table
- B. Bi-Annual Monitoring Report Guidelines
- C. Land Use Conversion Table
- D. Map H.: Master Concept Plan of Development, dated February 7, 2005, stamped received by the Permit Counter on February 8, 2005.

RECEIVED
MINUTES OFFICE
mjc

2005 MAY 13 AM 10:46


State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 13th day of May, A.D. 2005

CHARLIE GREEN, CLERK

By


Deputy Clerk

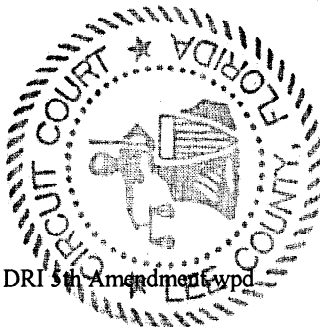


EXHIBIT A
HEALTH PARK FLORIDA DRI
(Revised December 2000 2005)

| LAND USE | PHASE I | PHASE II | TOTAL <u>(2012)</u> |
|--|--|--|--|
| <u>Residential</u> Independent Living Assisted Living & Skilled Nursing Res. Multi-Family Lodging-motel ¹ | 363 du 407 beds 468 du 252 <u>172</u> rooms ¹ | 0 <u>115</u> du 0 <u>38</u> beds 500 <u>688</u> du 0 rooms | 363 <u>478</u> du 407 <u>445</u> beds 968 <u>1,156</u> du 252 <u>172</u> rooms |
| <u>Institutional/Office</u> Acute Care Hospital Medical & General Office Specialized Hospitals & Health Care Facilities Wellness Center Future Health Care Functions | 220 beds <u>340,000</u> sq. ft. 35,000 sq. ft. 16 beds 75,000 sq. ft. 17,200 sq. ft. | 220 322 beds 362,000 <u>125,000</u> sq. ft. -0- sq. ft. -0- beds 0 0 <u>3,600</u> sq. ft. | 440 <u>542</u> beds (554,603 sq. ft.) <u>702,000</u> <u>465,000</u> sq. ft. ² 35,000 sq. ft. 16 beds 75,000 sq. ft. 17,200 <u>20,800</u> sq. ft. |
| <u>Commercial</u> | 100,000 sq. ft. | 75,000 <u>60,000</u> sq. ft. | 175,000 <u>160,000</u> sq. ft. |
| Open Space, Lakes & Water Management | 99.0 ac. | 66.2 ac. | 165.2 ac. |

¹Includes rooms (existing and future) within the Ronald McDonald House.

²~~Includes 340,000 sq. ft. of medical office and 362,000 sq. ft. of general office.~~ Assumed to be medical office for traffic purposes.

EXHIBIT "B"

INFORMATION TO BE INCLUDED IN BI-ANNUAL MONITORING REPORT

- a. Any changes in the plan of development, or in the representations contained in the ADA, or in the phasing for the reporting year and for the next year;
- b. A summary comparison of development activity proposed and actually conducted for the year;
- c. Undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or developer;
- d. Identification and intended use of lands purchased, leased, or optioned by the developer adjacent to the original DRI site since the development order was issued;
- e. An assessment of the developer's and the local government's compliance with the conditions of approval contained in the DRI development order and the commitments which are contained in the Application for Development Approval and which have been identified by the local government, the Regional Planning Council, or the Department of Community Affairs as being significant;
- f. Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year;
- g. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, including type of permit, permit number and purpose of each;
- i. A statement that all persons have been sent copies of the bi-annual report in conformance with Subsection 380.06(14) and (16), Florida Statutes; and
- j. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the developer pursuant to Subsection 380.06(14)(d), Florida Statutes.

EXHIBIT "C"
HEALTHPARK FLORIDA
LAND USE CONVERSION

| | | To Use | | |
|------------------------------------|-----------------------|-----------------------|--------------------------|---------------------------|
| From Use | Medical Office | General Office | Residential Apts. | Specialty Hospital |
| Medical Office (1,000 sq. ft.) | N/A | 3,000 sq. ft. | 7.5 du | N/A |
| General Office (1,000 sq. ft.) | 330 sq. ft. | N/A | 2.4 du | N/A |
| Commercial (1,000 sq. ft.) | 1,200 sq. ft. | 3,400 sq. ft. | 8.5 du | 2.5 beds |
| Future Health Care (1,000 sq. ft.) | N/A | N/A | 3.6 du | 1.1 beds |

| <u>From Use</u> | <u>To Use</u> | | | |
|---------------------------------------|----------------------------------|---------------------------|--------------------------------|---------------------------------|
| | <u>Independent Living (d.u.)</u> | <u>Multifamily (d.u.)</u> | <u>Lodging - Motel (units)</u> | <u>Medical Office (sq. ft.)</u> |
| <u>Multifamily (d.u.)</u> | <u>3.3</u> | <u>1.0</u> | <u>0.8</u> | <u>200</u> |
| <u>Lodging - Motel (units)</u> | <u>4.1</u> | <u>1.2</u> | <u>1.0</u> | <u>250</u> |
| <u>Hospital (bed)</u> | <u>7.8</u> | <u>2.3</u> | <u>1.9</u> | <u>470</u> |
| <u>Commercial (1,000 sq. ft.)</u> | <u>31.5</u> | <u>9.4</u> | <u>7.7</u> | <u>1,900</u> |
| <u>Medical Office (1,000 sq. ft.)</u> | <u>16.7</u> | <u>5.0</u> | <u>4.1</u> | <u>1,000</u> |

This transfer of or conversion may occur in accordance with Section II.D.1 provided that: 1) the external trips originally approved for the DRI remain the same (i.e., 3,204 peak hour trips and 34,393 daily trips); and 2) no additional impact will occur to other public facilities (such as sewer and water) and; 3) the conversion will not create a need for additional affordable housing. Further, no alteration to the Master Concept Plan may occur as a result of the conversion. In addition, the amount of square feet, beds and units to be converted to other uses or from other uses would be limited to no more than the following:

EXHIBIT “C”
MAXIMUM CONVERSION THRESHOLDS ¹

| Land Use | Maximum Amount Converted From | Maximum Amount Converted To |
|--|----------------------------------|--------------------------------------|
| Medical Office | 60,000 sq. ft. | 59,999 sq. ft. |
| General Office | 60,000 sq. ft. | 59,999 sq. ft. |
| Specialty Hospital | 0 beds <u>60 beds</u> | 59 beds <u>N/A</u> |
| Residential Apts. Multifamily | 0 <u>58</u> du | 49 <u>57</u> du |
| Commercial | 50,000 sq. ft. | 49,999 sq. ft. <u>N/A</u> |
| Future Health Care | 50,000 sq. ft. | 49,999 sq. ft. |
| <u>Independent Living</u> | <u>50 du</u> | <u>49 du</u> |
| <u>Lodging - Motel</u> | <u>75 units</u> | <u>74 units</u> |

Footnote:

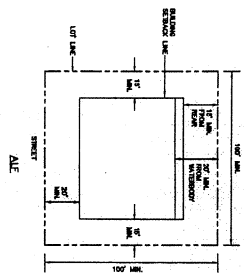
¹ Purpose of the maximum conversion thresholds is to allow flexibility in development without triggering the need for an amendment to the development approvals. Conversions outside the range will require a formal Notice of Proposed Change to the DRI Development Order.

Thirty (30) days notice of any conversion must be provided to the County, The Regional Planning Council, and The Department of Community Affairs. In addition, the amount of conversion must be reported as part of the subsequent bi-annual monitoring report.

| | |
|--------|--------|
| 100 mL | 100 mL |
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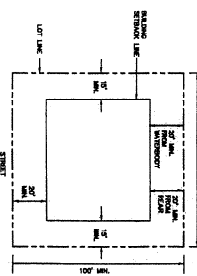
1. RE-SAVED LOTS SHALL HAVE NO MINIMUM LOT WIDTH BUT WILL BEET LOT AREA REQUIREMENTS.
2. SEE LOT SECTIONS 34-114, 34-115, 34-316 AND 34-216 FOR ACCESSORY STRUCTURAL STANDARDS UNLESS IN CONFLICT WITH ABOVE REQUIREMENTS.



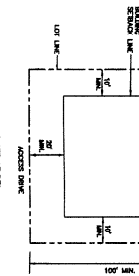
INFORMATION

UK CPD

4024 AGNES
-164 AGNES
-2047 AGNES



10 OF LE COUNTY LAND DEVELOPMENT



Therese

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