

2342006

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, Lee Memorial Inc., has properly filed an application on a project known as Health Park Florida for:

In the AG-2 District:

- a) Consider the Application for Development Approval (ADA) for a Development of Regional Impact (DRI); and
- b) A rezoning from AG-2 to Commercial Planned Development District, to permit a mixed use commercial development on a total of 402.8 acres of land. The project will include 1,233,603 square feet of acute care and specialty hospital space (1236 beds), 545,000 square feet of medical and general office space, 200,000 square feet of medical education space, 350,000 square feet of medical and general retail space (food and beverage, financial and business services), 680 independent living units (ACLF), 280 assisted living units (ACLF), 240 nursing home beds, 170,000 square feet of recreational space (Wellness Center), and 160,000 square feet of campus services (maintenance, electric generator, laundry, security and hospital incineration facilities). Buildings in the proposed development will not exceed eight (8) habitable floors. The project will have three consumption on premises (COP) of alcoholic beverages and other such uses as permitted by the CPD category as modified by the Master Concept Plan.

NOTE:

If approved, the Master Concept Plan will deviate from the following Lee County standards:

- (1) Minimum water retention excavation setbacks to a section line of 75 feet (518.C.1), to 0 feet between Sections 33 and 4, and between Sections 4 and 5;
- (2) Minimum water retention excavation setbacks to a street right-of-way of 150 feet (518.C.4), to 0 feet;
- (3) Minimum water retention excavation setbacks to a private property line of 50 feet (518.C.4), to 0 feet;
- (4) Minimum setback between structures and a section line of 75 feet (202.15.B.3.a), to 0 feet between Sections 33 and 4, and between Sections 4 and 5;
- (5) Minimum water retention excavation setbacks to a quarter section line of 60 feet (518.C.2), to 0 feet for the east-west line in Section 4;
- (6) Minimum setback between structures and a quarter section line of 60 feet (202.15.B.3.b), to 0 feet for the east-west line in Section 4, and the north-south line in Sections 33 and 4;
- (7) Deviation from the Wetlands Protection Ordinance #86-31 for the excavation and/or filling of wetlands as identified on the site plan and in the ADA (as supplemented); and

WHEREAS, the subject property is located at the in section of Summerlin Road and Bass Road east of Cow Slough, described more particularly as:

LEGAL DESCRIPTION: In Section 04, Township 46 South, Range 24 East, and Section 33, Township 45 South, Range 24 East, Lee County, Florida:

All of that part of the south half (S ½) of the south half (S ½) of Section 33, Township 45 South, Range 24 East, Lee County Florida lying northwesterly of Summerlin Road (CR-869) and

All that part of Section 04, Township 46 South, Range 24 East, Lee County Florida lying northwesterly of Summerlin Road (CR-869).

Containing 402.83 acres more or less including 3.27 acres more or less in Bass Road (50 feet wide), 12.29 acres more or less in former Iona Drainage District Canals B-1, C-6, and C-8 and 2.2 acres more or less in Florida Power & Light Company right-of-way easement.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 33-45-24-00-00003.0000,

33-45-24-00-00005.0000,

04-46-24-00-00003.0000,

04-46-24-00-00005.0000,

04-46-24-00-00001.0000,

04-46-24-00-00002.0000,

04-46-24-00-00008.0010,

04-46-24-00-00001.2000,

04-46-24-00-00001.1000; and

WHEREAS, proper authorization has been given to Humphrey, Jones, & Myers, P.A., by Douglas A. Dodson, Executive Director, Lee Memorial Hospital, Inc. the fee simple owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter and recommended PARTIAL APPROVAL of the request, based on the analysis contained in the Staff Report of April 29, 1987, and the testimony given at the May 4, 1987, Planning and Zoning Commission Hearing; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

The proposed Health Park development is a mixed use health-commercial facility located at the intersection of Summerlin and Bass Roads on a 402.8 acre site. As currently planned, the development will contain a 29.2 acres of residential uses; 120.5 acres of hospital, office, educational and other support services; 31.0 acres of commercial activities; 165.2 acres of open space, lakes, water management facilities and 56.9 acres of roads.

This case was originally scheduled to be heard by the Planning and Zoning Commission on March 2, 1987. At that hearing, the case was continued until April 6, 1987 at which time the case was again continued until May 4, 1987. At the May 4, 1987 hearing, the Planning and Zoning Commission rendered a finding of consistency with the Comprehensive Plan and recommended partial approval of the Development of Regional Impact and approval for Phase I of the Commercial Planned Development with conditions and conceptual approval for Phase II.

On March 23, 1987, the Board of County Commissioners deferred action until May 26, 1987. The May 26, 1987 hearing was rescheduled to June 8, 1987. At the beginning of the June 8, 1987 hearing, the absence of two commissioners was noted and the potential conflict of interest of a third commissioner was resolved. The only area of disagreement between staff and the applicant dealt with transportation impacts.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE:

- (a) The Development Order (#5-8586-63) for a Development of Regional Impact (DRI); and

In the AG-2 District:

- (b) A rezoning from AG-2 to Commercial Planned Development District, to permit a mixed use commercial development on a total of 402.8 acres of land. The project will include 1,233,603 square feet of acute care and specialty hospital space (1236 beds), 545,000 square feet of medical and general office space, 200,000 square feet of medical education space, 350,000 square feet of medical and general retail space (food and beverage, financial and business services), 680 independent living units (ACLF), 280 assisted living units (ACLF), 240 nursing home beds, 170,000 square feet of recreational space (Wellness Center), and 160,000 square feet of campus services (maintenance, electric generator, laundry, security and hospital incineration facilities). Buildings in the proposed development will not exceed eight (8) habitable floors. The project will have three consumption on premises (COP) of alcoholic beverages and other such uses as permitted by the CPD category as modified by the Master Concept Plan.

Approval is subject to the following conditions:

1. Transportation

- a. Approval of this CPD shall include those conditions relating to transportation issues as identified in the approved Development Order on pages 6-15. (copy attached) and as further clarified as follows:

(1) Section D.2.d

While the developer may contribute to Lee County a sum of \$50,000 to expand the County's inventory of permanent count stations at the intersections identified in Condition D.2, it is understood by the developer that, as a part of the annual monitoring report, turning movement counts resulting from those permanent count stations and turning movement counts for all intersections identified in condition (1) and (2) will be provided to the reviewing agencies.

(2) Section D.9

It is understood by the developer that the statement in Condition D.9 which reads". . . (or the County adopted Level of Service policy in effect at the time of the annual report). . ." is not intended to circumvent the Regional Planning Council's Level of Service policy or significant impact criteria. The intent is that the developer will comply with the applicable policy in effect at the time for the specified roads. The statement in questions is intended to read ". . . (or adopted policy in effect at the time of the annual report for th specified roads)."

(3) Section D.5.

The second line of the third paragraph of Condition D.5 includes an editing error. That first sentence should read:

"The developer shall be obligated to reimburse Lee County for the additional right-of-way and construction costs, if any, for that shift in the roadway alignment (ie the difference between an arterial section line alignment and the northern alignment)"

(4) Section D.8.d

The exclusion referred to in Condition D.8.d was intended to apply only to Gladiolus Drive and not to Bass Road or Kelly Road. The improvement to Gladiolus Drive, if undertaken by the developer, would be the equivalent of adding two lanes to the existing two lane roadway.

2. Hurricane Evacuation

- a. The applicant shall appoint a disaster coordinator experienced in emergency planning and operations to coordinate plan preparation for the entire project. The applicant shall 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.

- b. The applicant shall 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:

1. Duties and responsibilities
2. Plan coordination and activation
3. Warning and notification
4. Evacuation of population off-site
5. In-place sheltering
6. Off-site sheltering
7. Transportation
8. Support Services for in-place and off-site shelter
9. Security for property and psychiatric patients sheltered off-site
10. Training
11. Communications
12. Continuity of Patient Care on-site and off-site
13. Damage Assessment
14. Recovery

The plan shall be approved annually by the Lee County Department of Public Safety, and shall be coordinated with the existing plans for the Southwest Florida Regional Planning Council and Lee Memorial Hospital.

- c. In order to insure that any structure on the Health Park site which is planned for storm shelter purposes will be able to withstand a hurricane event, the applicant shall provide, prior to issuance of building permits, documentation to the Director of the Division of Emergency Management that such structures shall be constructed to standards to survive a category 4 hurricane to withstand wind loads of not less than 140 mph, utilizing the methodology described in The Jenkins and Charland, Inc. report dated April 30, 1987.
- d. The applicant shall have a current, on-going, annually-updated program to educate residents, patients, and staff in the matters of hurricane threat, hurricane planning, evacuation and sheltering.
- e. The portions of the project to be used as refuge by the persons listed above shall have a minimum elevation of 17 feet above mean sea level. The building(s) used for refuge shall be designed and constructed to withstand winds of 140 mph utilizing the methodology described in The Jenkins and Charland, Inc. report dated April 30, 1987, and be so certified by a licensed engineer. The building(s) shall also be constructed with as little exposed glass as possible and protected by storm shutters. The refuge shall 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 shall be determined by the Lee County Office of Emergency Management and shall include radios and a weather thermofax receiver so that Health Park is alerted as early as possible and may begin evacuating as early as possible. All emergency support facilities, water, power, sanitation, etc. shall be located at a minimum of 17 feet above mean sea level.
- f. At least one road connecting the central core of the project with Summerlin Road shall be constructed, as a minimum, at the same elevation as Summerlin Road. This will allow a maximum access to the project before, during and after a hurricane.

- g. All first floor building heights must be elevated at least one (1) foot in excess of the 100-year flood plain which is 8 feet above N.G.V.D. as per the National Flood Insurance Program.

3. Vegetation/Wetlands

- a. To mitigate the encroachment of wetlands, the developer shall 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 shall be appropriately scraped, contoured and sufficiently planted with the same type wetland vegetation as that found within the wetland areas encroached upon. The top soil of the wetland areas to be developed shall be utilized as mulching for the created wetlands. Prior to Final Development Order approval of Phase I, the exact extent of encroachment shall be field verified by county staff and a specific wetland creation plan, including a timetable shall be provided, both subject to approval by the Department of Community Development.
- b. Prior to Final Development Order approval of Phase I, a specific lake littoral zone creation plan shall be provided (for the proposed 11.4 acres of created lake littoral zone), subject to approval by the Department of Community Development.
- c. Prior to the issuance of a Certificate of Completion pursuant to the FDO for Phase I (site related improvements), the developer shall 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.
- d. All exotic vegetation (Brazilian Pepper, Melaleuca and Australian Pine) shall be removed from each project segment prior to the completion of that segment. Prior to Final Development Order approval, those areas where mechanical removal of exotic vegetation will be permitted shall be field flagged and approved by the Department of Community Development.
- e. Prior to the issuance of a Certificate of Completion for Phase I, the developer shall 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 shall be that area necessary to aid in the re-establishment of the natural connection of this wetland to Cow Slough and shall be mutually agreed upon by county staff and the developer.
- f. Prior to Final Development Order approval for Phase I, a maintenance program shall be provided to control the re-invasion of exotic vegetation in the wetland preservation areas and the created wetland areas. This program shall be in effect for a minimum of three (3) years and shall be approved by the Department of Community Development.
- g. Prior to Final Development Order approval of Phase I, the developer shall provide a specific plan for monitoring the freshwater wetland area located east of Bass Road. This plan shall include at a minimum the methodology for monitoring the wetland with respect to hydrology, vegetation and wildlife habitat and shall be subject to approval by the Department of Community Development.

- h. The applicant shall monitor the existing stormwater discharge that flows into the Hendry Creek Watershed to determine the appropriate, future discharge route. All further coordination shall be with the SFWMD, FDER, and Lee County.
 - i. A regularly scheduled vacuum sweeping program shall be initiated and continued by the applicant, as a best management practice (b.m.p.).
 - j. Prior to the issuance of a Lee County Development Standard Ordinance pursuant to the FDO for each parcel, a wetlands use plan shall be submitted 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.
4. Wildlife
- a. The applicant shall coordinate with appropriate agencies for relocating any threatened or endangered species found on site or to preserve their habitats.
5. Fire Protection
- a. Prior to final plan approval, the applicant shall have made acceptable provisions for off-setting any added net public costs or premature commitment of public funds needed to provide appropriate levels of fire protection services for the development. In particular, the applicant shall make all necessary arrangements with the Iona McGregor Fire District to off-set a proportionate share of the costs of the land, buildings, and equipment required to provide adequate fire protection services to the project.
6. Solid Waste
- a. If any method of hazardous waste disposal is utilized other than on-site incineration, then the applicant shall coordinate with Lee County and FDER for the provision of temporary storage/transfer of special and hazardous wastes that are generated by the development.
 - b. The applicant and subsequent tenants of the project shall implement methods of reducing solid waste volume from the project.
 - c. The applicant shall identify to local EMS, Fire and Police officials the on-site storage locations and handling and disposing areas of all toxic, hazardous and radioactive materials.
 - d. All toxic, hazardous and radioactive materials shall be stored above the category III SLOSH hurricane flood elevation.
7. Stormwater Quality/Drainage
- a. An on-going maintenance, monitoring, and sampling program that regularly inspects, maintains, and samples the stormwater drainage system shall be implemented by the applicant, or his successor, through the project's lifetime.
 - b. All commitments provided within the Health Park ADA and supplemental sufficiency documents, with respect to Question 22 (Drainage), shall be incorporated as conditions for approval.

8. Wastewater

- a. Hazardous waste (see solid waste) will be generated by the project. The applicant must provide assurance that any wastewater containing hazardous waste will be segregated from everyday wastewater or receive proper on-site pre-treatment.
- b. The wastewater treatment facility provided on the site shall be temporary only. The applicant shall hook up to the Florida Cities Fiesta Village Wastewater Treatment Plant as soon as possible. Should the temporary plant still be in use after 5 years from the date of approval the final development order, the applicant shall 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.
- c. The applicant shall continue to explore the potential of receiving treated spray effluent from Lee County Utilities, in order to meet on-site non-potable demands.
- d. If spray irrigation proves infeasible for the Health Park site, then the applicant shall 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 non-potable demands.

9. Permitted Uses

- a. Permitted uses and conditions are as shown on the Master Concept Plan dated February, 1987, received by the County on June 25, 1987, and as updated through 6-3-87, except as modified by these conditions or as further modified by the D.R.I. Development Order.

10. General Development Conditions

- a. All commitments and impacts mitigating actions provided by the applicant within the Application for Development Approval (and supplementary documents) that are not in conflict with specific conditions for project approval outlined above are officially adopted as conditions for approval.
- b. Deviations (1) through (7) are hereby APPROVED to the extent shown on the Master Concept Plan, and as described in these conditions.
- c. The Master Concept Plan is a single sheet prepared by Johnson Engineering, dated February, 1987 and as updated through 6-3-87, received by the County on June 25, 1987, as modified herein.
- d. That while the land uses in both Phase I and II have been approved, the Applicant cannot proceed to seek Lee County Development Order approvals under the DSO for areas east of Bass Road, except for the Medical Education facility, until such time as the extent of the permitted alteration of the wetland area identified on the Concept Plan and the alignment of Kelly Road have been determined. The Applicant shall submit any additional information to Lee County concerning transportation, wetland protection, and hurricane evacuation, as deemed necessary by the Director of the Lee County Department of Community Development as a result of those added issues.

- e. The development, as part of the annual DRI monitoring report, shall include updated information on the Phase II, the 10-year buildout program and its progress towards obtaining project Certificate of Needs.

11. Potable Water

- a. The applicant shall incorporate the use of water conserving devices, as required by State Law (Chapter 533.14, Florida Statutes).
- b. The applicant shall 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 South Florida Water Management District.

Site Plan-87-058 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The Development Order for HEALTHPARK FLORIDA, a Development of Regional Impact, #5-8586-63, is attached hereto and incorporated herein by reference.

The following findings of fact were made in conjunction with this approval of CPD rezoning:

- a. The proposed uses are appropriate at the subject location;
- b. Sufficient safeguards to the public interest are provided by the recommended conditions to the Master Concept Plan and by other applicable regulations;
- c. All conditions found on the Master Concept Plan are reasonably related to the impacts on the public's interest created by or expected from the proposed development;
- d. The deviations being recommended for approval enhance the achievement of the objectives of the planned development; and
- e. The general intent of these regulations, to protect the public health, safety, and welfare, is preserved and promoted.

The following findings of fact were made in conjunction with the requested deviations:

Deviation (1) would allow water retention excavation to be constructed over several section lines on the site. No roadways are proposed for these section lines. Deviation (1) is hereby APPROVED.

Deviation (2) would allow water retention excavations to be built within zero feet of a street right-of-way. The Master Concept Plan shows several areas where the lakes either are located under the roadway or are located within 150 feet of the roadway. Deviation (2) is hereby APPROVED.

Deviation (3) would allow water retention lakes to be built over private property lines. The applicant proposes to sell portions of the site to the various service providers. Since some of the properties sold would boarder lakes this deviation is required. The water management system on the site is integrated and functions as a whole. Deviation (3) is hereby APPROVED.

Deviation (4) would allow the applicant to construct buildings over some of the section lines on the property. No road ways are proposed for these Section lines. Deviation (4) is hereby APPROVED.

Deviation (5) would allow water retention lakes to be built over the quarter section lines. No roadways are proposed for these section lines. Deviation (5) is hereby APPROVED.

Deviation (6) would allow water retention lakes to be built over the quarter section lines. Deviation (6) is hereby APPROVED.

Deviation (7) would allow the filling and/or excavation of some of the wetlands on site as shown on the Master Concept Plan and identified in the project Application for Development Approval. The county environmental staff has reviewed this request. Deviation (7) is hereby APPROVED.

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

Porter J. Goss	Aye
Charles L. Bigelow, Jr.	Aye
Mary Ann Wallace	Absent
Bill Fussell	Aye
Donald D. Slisher	Absent

DULY PASSED AND ADOPTED this 8th day of June, A.D., 1987.

ATTEST:
CHARLIE GREEN, CLERK

BY: Mary Ann Wallace
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

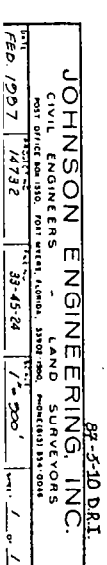
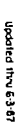
County Attorney's Office

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SEP 21 1987

CHARLIE GREEN
CLERK CIRCUIT COURT
BY Mary Ann Wallace D.C.

REG 1944701 301



Let Healthcare Resources, Inc.

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JUN 25 1947

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 CONSISTS OF APPROXIMATELY FOUR HUNDRED TWO POINT EIGHT (402.8) 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, has considered the application for Development Approval, the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Staff, the Lee County Planning and Zoning Commission, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of said reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The project will include 1,233,603 square feet of acute care and specialty hospital space (1236 beds), 545,000 square feet of medical and general office space, 200,000 square feet of medical education space, 350,000 square feet of medical and general retail space (food and beverage, financial and business services), 680 independent living units (ACLF), 280 bed (93 units) assisted living (ACLF), 240 bed (80 units) nursing home, 170,000 square feet of recreational space (Wellness Center), and 160,000 square feet of campus services (maintenance, electric generator, laundry, security and hospital incineration facilities). Buildings in the proposed development will not exceed eight (8) habitable floors. The project will have three consumption on premises (COP) of alcoholic beverages and 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:

All that part of the south half (S-1/2) of the south half (S-1/2) of Section 33, Township 45 South, Range 24 East, Lee County, Florida lying northwesterly of Summerlin Road (CR-869) and

All that part of Section 4, Township 46 South, Range 24 East, Lee County, Florida lying northwesterly of Summerlin Road (CR-869).

Containing 402.83 acres more or less including 3.27 acres more or less in Bass Road (50 feet wide), 12.29 acres more or less in former Iona Drainage District Canals B-1, C-6 and C-8 and 2.2 acres more or less in Florida Power & Light Company right-of-way easement.

C. The subject property is presently zoned AG-2, pursuant to the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations of 1962, 1978, and 1986 as amended; and

D. This 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 development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by the council on December 18, 1986 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 subject property is being rezoned in accordance with Lee County Zoning Ordinance 86-17 as amended, and the Zoning Resolution contains additional details and conditions pertaining to the HealthPark 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 this Eighth day of June, 1987, that the Development of Regional Impact Application for Development Approval submitted by James T. Humphrey, authorized representative for the applicant, for the development known as "HealthPark Florida" 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 and/or his successor(s) shall implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater discharge from the management system until the complete buildout 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 1/2 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 applicant shall 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 applicant 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, as a best management practice (b.m.p.).

B. ENERGY

The applicant shall incorporate, where appropriate in saving energy, the following energy conservation features into all site plans and architectural programs, or insure 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. FLOODPLAIN/HURRICANE EVACUATION

1. The applicant shall appoint a disaster coordinator experienced in emergency planning and operations to coordinate plan preparation for the entire project. The applicant shall 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 applicant shall 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 insure that any structure on the HealthPark

site which is planned for storm shelter purposes will be able to withstand a hurricane event, the applicant shall provide, prior to issuance of building permits, documentation to the Director of the Lee County Division of Emergency Management that such structures shall 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 applicant shall have 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 shall have a minimum elevation of 17 feet NGVD. The building(s) used for refuge shall 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) shall also be constructed with as little exposed glass as possible and shall 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 shall be determined by the Lee County Division of Emergency Management. All emergency support facilities, water, power, sanitation, etc. shall be located at a minimum of 17 feet above mean sea level.

6. At least one road connecting the central core of the project with Summerlin Road shall be constructed, as a minimum, 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.

D. TRANSPORTATION

1. Development Phasing/Buildout

The traffic impact assessment upon which this Development Order for HealthPark Florida DRI is based assumes expected buildout in 1997. The traffic impact assessment included the expected impacts of the proposed land uses and phasing schedule shown in Exhibit "A".

2. Annual Monitoring Program

A. An annual traffic monitoring program to be performed by traffic engineers engaged by the developer shall be established to monitor the development's impact upon the area's roadways. The monitoring program shall be designed in cooperation with the

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Lee County Department of Transportation and Engineering. The annual monitoring report shall 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.)

a. Location	Development	
	<u>Phase I</u>	<u>Phase II (Buildout)</u>
(1) All project access points onto Bass Road, Kelly Road and A&W Bulb road.	x	x
(2) 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/Bass Road	x	x
Gladiolus Drive/Winkler Road	x	x
Bass Road/Kelly Road	x	x

b. The developer or his representative shall 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. Reports shall then be submitted to the agencies listed above each year until buildout. The purpose of this program is to:

(1) determine whether or not the traffic levels projected in the ADA are exceeded by actual traffic;

(2) determine the Project's external trip generation; and

(3) assist Lee County in determining the proper timing of necessary roadway improvements.

c. 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 shall go 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

d. In the event that the developer contributes the funding for these permanent count locations, the developer shall only be obligated to annually monitor the following:

- (1) the development's access points onto Bass Road, Kelly Road and A & W Bulb Road.
- (2) the intersections of:
 Summerlin Road/Bass Road
 Summerlin Road/Kelly Road
 Bass Road/Kelly Road

3. Site Related Intersection Improvements

The developer shall, 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, Kelly Road and A&W Bulb Road. As a minimum, the developer shall fund the following site related improvements:

- a. Bass Road / West Lee Memorial Parkway:
 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 / East Lee Memorial Parkway:
 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. A&W Bulb Road / South Loop Road (if applicable):
 NB right turn lane.
 SB left turn lane.
 WB left and right turn lanes.
- d. A&W Bulb Road / North Loop Road (if applicable):
 NB right turn lane.
 SB left turn lane.
 WB left and right turn lanes.
- e. Kelly Road / East Lee Memorial Parkway (if applicable):
 WB left turn lane.
 EB right turn lane.
 NB left and right turn lanes.

The developer shall not be 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 the Roads Impact Fee Ordinance.

4. Site Related Roadway Improvements

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

- a. West Lee Memorial Parkway.
- b. East Lee Memorial Parkway.
- c. North and south loop road connection of West Lee Memorial Parkway to A&W Bulb Road (if applicable).

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

C. The developer shall not be 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 the Roads Impact Fee Ordinance.

5. Kelly Road Realignment

If written approval is obtained from the Director of the Department of Transportation & Engineering, Kelly Road, as part of the HealthPark Florida Master Concept Plan, will be shifted from the present preliminary section line east/west alignment through HealthPark to the northern boundary of HealthPark. That realignment begins at Summerlin Road and returns to its original alignment approximately 1900 feet west of A&W Bulb Road. Approval of this site plan is not affected if Lee County Department of Transportation & Engineering approves the original alignment or an alternate Kelly Road alignment.

With that written approval from the Director of the Lee County Department of Transportation & Engineering, Lee County shall amend the Official Trafficways Map to reflect this alignment of Kelly Road and this alignment of Kelly Road shall be the roadway center line.

The developer shall be obligated to reimburse Lee County for the additional construction costs, if any, for that shift in the right-of-way and roadway alignment (i.e. the difference between an arterial section line alignment and the northern alignment). Construction cost estimates shall be prepared for both alignments by Lee County subject to review and approval by the developer. Right of way dedications and construction, if any, made by the developer shall be credited against this cost differential, if any.

6. Right-of-Way Dedication

a. The developer shall dedicate the following right of way within or contiguous to HealthPark Florida.

(1) 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.

(2) Sufficient right-of-way along the north property line to provide 150 feet of right of way for Kelly Road from A&W Bulb Road to a point approximately 300 feet east of Bass Road.

(3) Sufficient right-of-way within the northeast quadrant of the Project to provide 150 feet of right of way for Kelly Road from a point approximately 300 feet east of Bass Road to Summerlin Road.

(4) Sufficient right-of-way along the west property line to provide 50 feet of right of way for A&W Bulb Road from Kelly Road to a point approximately 400 feet north of Summerlin Road.

(5) Sufficient right-of-way within the southwest quadrant of the project to provide a total of 100 feet of right of way for A&W Bulb Road from a point approximately 400 feet north of Summerlin Road to Summerlin Road.

b. This right-of-way shall 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.

(3) Kelly Road, 150 feet of right-of-way from A&W Bulb Road to Summerlin Road, at the time of the issuance of the first building permits for future healthcare parcels A and commercial parcels A, B and C or prior to the construction of the Kelly Road extension by Lee County which ever comes first, provided, however, that should Kelly Road be developed as a limited access highway, the developer shall not be precluded from seeking damages relating to the condemnation of its otherwise unlimited access rights.

(4) A&W Bulb Road, 50 and 100 feet of right-of-way as described in 6(A)(4) and 6(A)(5) above, from Summerlin Road to Kelly Road, at the time of the issuance of the first building permit for Phase II of HealthPark.

c. Credits against road impact fees for right-of-way dedication shall be in accordance with the provisions of the Lee County Roads Impact Fee Ordinance.

7. Road Impact Fees / Proportionate Share

a. The developer shall pay to Lee County the road impact fees in effect at the time building permits are issued for HealthPark Florida. These impact fee payments shall represent

proportionate share payments for the following roadway and associated intersection improvements:

- (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.
- (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 Kelly Road from Summerlin Road to Bass Road.
- (11) The two lane extension of Kelly Road from Bass Road to Pine Ridge Road.
- (12) Intersection improvements at the following locations:

- (a) Summerlin Road/San Carlos Boulevard
- (b) Summerlin Road/Bass Road
- (c) Summerlin Road/Kelly Road
- (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

b. Should the roads impact fees be repealed, reduced or made unenforceable by court action, the traffic impacts of HealthPark Florida shall be immediately reanalyzed to determine

appropriate alternative mitigation and the Development Order amended as appropriate to include such mitigation prior to the issuance of subsequent building permits.

8. 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 US 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 ordinance 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) insure that roadway construction occurs in a timely fashion to serve this development.

d. If undertaken by the developer, the developer shall have no obligation for 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 shall be carried over to the next phase of development. In the event that the total dollar value of such improvements during buildout of HealthPark exceeds road impact fees, HealthPark shall be eligible to recapture that excess value through a rebateable agreement which would include,

but not be limited to, reimbursement from other area developments and County Road Impact Fee revenues.

9. Level of Service/Significant Impact

In the event that:

a. Level of Service "C" on an annual average daily basis (or the County adopted level of service policy in effect at the time of the annual report) be exceeded for any regional road segment and/or intersection identified above and which operates, at the effective date of this development order, at Level of Service "C" or better; or

b. the existing volume to capacity ratios for those regional road segments and/or intersections identified above and which operate, at the effective date of this development order, at worse than Level of Service "C" be exceeded; and

(1) the required road and/or intersection improvements necessary to bring the identified roadway back to Level of Service "C" (or the County adopted level of service policy in effect at the time of the annual report) or necessary to maintain and/or improve the existing volume to capacity ratios are not funded and programmed for construction during the next five years (or if such roadway and/or intersection improvement funded and programmed for construction during that five year period be deleted from the program, postponed beyond the five year period or not constructed within the five year period), and

(2) HealthPark Florida traffic is utilizing 5% or more, but less than 10% of the Level of Service "C" service volume on an annual average daily basis (or the County adopted level of service policy in effect at the time of the annual report) on the impacted regional road segment or intersection; then the Developer shall within ninety (90) days file a petition in accordance with Florida Statute 380.06 for determination of whether a substantial deviation has occurred.

c. If HealthPark Florida is utilizing 10% or more of the Level of Service "C" service volume on an annual average daily basis (or the adopted County level of service policy in effect at the time of the annual report) of the impacted regional road segment or intersection, and:

(1) The actual level of service on the said roadway, which at the effective date of this development order operates at level of Service "C" or better, falls below Level of Service "C" on an annual average daily basis (or the County adopted Level of Service policy in effect at the time of the annual report); or

(2) The actual volume to capacity ratio on the said roadway which at the effective date of this development order operates at

worse than Level of Service "C", is worse than that existing at the effective date of this development order; then a substantial deviation shall be deemed to have occurred and this development shall be subject to any moratorium imposed on all developments impacting that same road.

d. HealthPark Florida may continue development during substantial deviation DRI review if the Developer enters into an agreement with the Department of Community Affairs, the Southwest Florida Regional Planning Council, and Lee County specifying the scope of development allowed during the review period. This paragraph shall not be construed to guarantee to HealthPark Florida the right to continue development during the substantial deviation DRI review.

10. 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 and Kelly Road from Summerlin Road to Pine Ridge Road, the Developer may be required to submit for review and approval a traffic reassessment prior to the issuance of the first building permit for Phase II development (Exhibit A). The traffic reassessment shall be required if the following conditions are met.

(1) total HealthPark Florida external trip generation for Phase I development exceeds 19,500 trip ends on an annual average daily basis, or

(2) the extension of Bass Road from Gladiolus Drive to Cypress Lake Drive is not funded and programmed to be operational during the next five year development phase and Summerlin Road from Gladiolus Drive to Cypress Lake Drive operates at the end of Phase I or is projected to operate during the next phase of development at lower than the County's adopted level of service policy in effect at the time, and

(3) the extension of Kelly Road from Summerlin Road to Pine Ridge Road is not funded and programmed to be operational during the next five year phase of development and Summerlin Road from Winkler Road to San Carlos Boulevard and Gladiolus Drive from Winkler Road to McGregor Boulevard operate at the end of Phase I or are projected to operate during the next phase of development at lower than the County's adopted level of service policy in effect at the time.

b. The traffic reassessment, if required, shall be submitted to the Department of Community Affairs, Southwest Florida Regional Planning Council, and Lee County and will be an equivalent to an update of the developer's ADA assessment of Question 31 in the DRI Questionnaire. The traffic reassessment will document 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, if any, to mitigate additional traffic impacts through the next phase of development.

11. Municipal Services Benefit Unit

A. Nothing contained in this Development Order shall be construed to 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 benefited. 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 shall 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 shall be appropriately scraped, contoured and sufficiently planted with the same type wetland vegetation as that 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 shall be field verified by county staff and the developer and a specific wetland creation plan and a timetable shall 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), a detailed water management lake littoral zone creation plan shall be provided for each segment to be permitted, 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 shall 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. All exotic vegetation (Brazilian Pepper, Melaleuca and Australian Pine) shall be removed 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 shall 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 shall be that area necessary to aid in the reestablishment of the natural connection of this wetland to Cow Slough and shall 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), a maintenance program shall be provided to control the reinvasion 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 shall be in effect for a minimum of three (3) years and shall be approved by the Department of Community Development.

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

9. The applicant shall monitor the existing stormwater discharge that flows into the Hendry Creek Watershed to determine the appropriate future discharge route. All further coordination shall be with the SFWMD, FDER and Lee County.

10. Prior to the issuance of a Lee County Development Standards Ordinance pursuant to the FDO for each parcel, a wetlands plan for that parcel shall be submitted 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 applicant shall 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 applicant 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 shall be temporary only and should the temporary plant still be in use after 5 years from the date of approval of the final development order, the applicant shall 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 applicant shall 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 applicant shall 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 applicant shall incorporate the use of water conserving devices, as required by State Law (Section 533.14, Florida Statutes).

8. The applicant shall 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. SOLIDWASTE

1. If any method of hazardous waste disposal is utilized other than on-site incineration, then the applicant shall 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 applicant and subsequent occupants of the project shall implement methods of reducing solid waste volume from the project.

3. The applicant shall identify to local EMS, Fire and

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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 shall be stored above the category III SLOSH hurricane flood elevation.

H. GENERAL DEVELOPMENT CONDITIONS

1. The Master Concept Plan prepared by Johnson Engineering dated February 1987 as updated through June 3, 1987, as amended at the Public Hearing, is incorporated into and made a part of this Development Order. The permitted uses and conditions are as shown on the Master Concept Plan and the conditions contained within this development order.

2. While the land uses in both Phase I and II have been approved, the applicant cannot proceed to seek Lee County development order approvals under the DSO for the areas east of Bass Road, except for the medical education facility, until such time as the extent of permitted alteration of the wetland area identified on the concept plan and the alignment of Kelly Road can be determined. The applicant shall submit any additional information to Lee County concerning transportation, wetland protection and hurricane evacuation as deemed necessary by the Director of the Lee County Department of Community Development, as a result of added issues or impacts not addressed in the ADA arising from modification of the site plan to accommodate the wetland and Kelly Road alignment determinations. The information and changes, if any, will be reviewed to determine whether such changes cumulatively constitute a substantial deviation pursuant to subsection (19) of §380.06 F.S. Unless a substantial deviation is established, the site plan may be modified with the approval of the director of the Lee County Department of Community Development to accommodate the wetland and Kelly Road alignment determinations.

3. The existing agricultural uses may continue or be discontinued and recontinued 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. This resolution shall constitute the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed for HealthPark Florida.

B. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with

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conditions or stipulations specifically enumerated above are hereby adopted to this Development Order by reference.

C. This Development Order shall be 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, shall not be construed to be binding upon future residents. It shall be binding upon any builder/developer who acquires any tract of land within HealthPark Florida.

D. 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. 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, shall be paid by the defaulting party.

F. Any reference herein to any governmental agency shall 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. In the event that any portion or section of this Development Order is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Development Order which shall remain in full force and effect.

H. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the applicant to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the applicant to comply with any County Ordinance or other regulations adopted after the effective date of this Development Order.

I. Subsequent requests for local development permits shall not 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 other 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 shall order a termination of all development activity until such time as 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. The deadline for commencing physical development under this 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. In the event 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 shall terminate and the development shall be subject to further consideration. Significant physical development shall include 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 shall 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 buildout of a development by five (5) or more years shall 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 buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.

K. The development will not be subject to down-zoning, unit density reduction, or intensity reduction, for five (5) years following the approval of zoning, 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. The Administrative Director of the Lee County Department of Community Development or his/her designee shall be the local official responsible for assuring compliance with this Development Order.

M. The applicants, or their successor(s) in title to the undeveloped portion of the subject property, shall submit a report annually 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 shall describe the state of development and compliance as of the date of submission, and shall further be consistent with the rules of the State Land Planning Agency. The annual report shall contain information as specified in Exhibit "B". The first monitoring report shall be submitted to the Administrative Director of the Department of Community Development not later than August 1, 1988, and further reporting shall 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 applicant shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order.

N. 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 shall not be 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, notice of its adoption shall be recorded in the Office of the Clerk of the Circuit Court by the developer, as provided in Chapter 380, Florida Statutes.

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

Commissioner Goss	Aye
Commissioner Bigelow	Aye
Commissioner Wallace	Absent
Commissioner Fussell	Aye
Commissioner Slishe	Absent

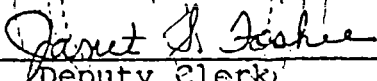
DULY PASSED AND ADOPTED this 8th day of June, 1987.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: 
(Vice-Chairman)

ATTEST:

Charlie Green, Clerk


Deputy Clerk

APPROVED AS TO FORM

By: 
County Attorney's Office

EXHIBIT "A"

	Phase I		Phase II		Total	Total
	Units	Beds	Units	Beds	Units	Beds
<u>Land Use</u>						
<u>Residential</u>						
Independent Living	440	440	240	240	680	680
Assisted Living & Skilled Nursing	87	260	86	260	173	520
Lodging - Motel	30		30		60	
Total		700		500		1,200
<u>Land Use</u>						
<u>Institutional</u>						
Acute Care Hospital (Incl. Women & Children Rehab & Cancer)	352,603	380	364,000	388	716	768
Doctor's Offices (Out Patients & Lab)	225,000		225,000		450,000	
Medical Services Mall	25,000		25,000		50,000	
Specialized Hospitals & Health Care Facilities	141,000	234	141,000	234	282,000	468
Medical Education	100,000		100,000		200,000	
Wellness Center	85,000		85,000		170,000	
Future Hospital Functions	110,000		125,000		235,000	
Support Facilities (Campus Services)	80,000		80,000		160,000	
Total	1,118,603		1,145,000		2,263,603	
<u>Commercial</u>						
Future Commercial A, B and D	100,000		200,000		300,000	
<u>Open Space</u>						
Open Space, Lakes Water Management Easements	99.0 acres		66.2 acres		165.2	

<u>Roads</u>			
Roads (internal road network)	39.8 acres	17.1 acres	56.9
Total	138.8 acres	83.3 acres	222.1

REC 1944 PG 1385

SEP 28 8 38 AM '87

REC 1944 PG 1386

EXHIBIT "B"INFORMATION TO BE INCLUDED
IN 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 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.