

RESOLUTION NO. R-2010- 0308

RESOLUTION APPROVING ZONING APPLICATION PDD/DOA/R/TDR-2009-03303  
(CONTROL NO. 2004-00458)  
a Development Order Amendment  
APPLICATION OF Hypoluxo Acquisition LLC  
BY CMS Engineering, LLC, AGENT  
(Isola Bella Isles PUD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied; and

WHEREAS, Zoning Application PDD/DOA/R/TDR-2009-03303 was presented to the Board of County Commissioners at a public hearing conducted on February 25, 2010; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a a Development Order Amendment.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application PDD/DOA/R/TDR-2009-03303, the petition of Hypoluxo Acquisition LLC, by CMS Engineering, LLC, agent, for a Development Order Amendment to modify the Master Plan; to add land area, add units, reconfigure the site plan, modify conditions of approval (Planning and Zoning) and restart the commencement clock in the PUD Zoning District on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on February 25, 2010, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

The motion was seconded by Commissioner Vana and, upon being put to a vote, the vote was as follows:

Commissioner Burt Aaronson, Chair	-	Aye
Commissioner Karen T. Marcus, Vice Chair	-	Aye
Commissioner Jeff Koons	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Nay
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	

The Chairperson thereupon declared that the resolution was duly passed and adopted on February 25, 2010.

Filed with the Clerk of the Board of County Commissioners on March 5, 2010.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK FLORIDA



EXHIBIT A

LEGAL DESCRIPTION

ALL OF THE PLAT OF ISOLA BELLA ISLES – PHASE 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 111, PAGES 199 THROUGH 122 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH

PARCEL 1:

A PARCEL OF LAND LYING IN THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BOUNDED ON THE NORTH BY THE NORTH LINE OF SAID SECTION 12; BOUNDED ON THE SOUTH BY THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 12, ACCORDING TO THE AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET. AL., RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BOUNDED ON THE EAST BY THE WEST LINE OF THE EAST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 12, ACCORDING TO SAID MARY A. LYMAN PLAT AND BOUNDED ON THE WEST BY THE WEST LINE OF SAID SECTION 12, ACCORDING TO THE FINAL JUDGMENT Nos. 18061-B AND 63L1226, PALM BEACH COUNTY, FLORIDA;

LESS THEREFROM THE NORTH 80.00 FEET MEASURED AT RIGHT ANGLES THERETO.

ALL AS DESCRIBED IN THE WARRANTY DEED RECORDED IN O.R. BOOK 2015, PAGE 678, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

PARCEL 2:

THAT PART OF TRACT 14 IN THE NORTHWEST ¼ OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, ACCORDING TO THE SURVEY BY E. ELLIOTT GROSS AND ASSOCIATES, REG. ENGINEER, WEST PALM BEACH, FLORIDA, JUNE, 1954, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, WHICH POINT IS 1357.04 FEET SOUTHERLY FROM THE NORTHWEST CORNER THEREOF, WHICH NORTHWEST CORNER IS 2652.23 FEET WESTERLY FROM THE CENTERLINE OF MILITARY TRAIL; THENCE SOUTHERLY ALONG THE WEST LINE OF SECTION 12, A DISTANCE OF 339.26 FEET; THENCE EASTERLY A DISTANCE OF 414.5 FEET TO A POINT; THENCE NORTHERLY A DISTANCE OF 338.36 FEET TO A POINT; THENCE WESTERLY MAKING AN ANGLE WITH THE PRECEDING COURSE OF 86° 18' 30" MEASURED FROM WEST TO SOUTH, A DISTANCE OF 395 FEET TO THE POINT OF BEGINNING.

SUBJECT TO POTENTIAL RIGHT-OF-WAY FOR CLOCK ROAD OVER THE SOUTH 20 FEET THEREOF.

TOGETHER WITH:

PARCEL 3:

THAT PART OF TRACT 14, SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, ACCORDING TO THE SURVEY BY E. ELLIOT GROSS AND ASSOCIATES,

REGISTERED ENGINEER, WEST PALM BEACH, FLORIDA JUNE 1954, BEING A PART OF THE UNRECORDED PLAT OF HYPOLUXO FARMS, A SUBDIVISION OF THE NORTHEAST ¼, OF SECTION 11, AND TRACT 14, SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, WHICH POINT IS 1696.30 FEET SOUTHERLY FROM THE NORTHWEST CORNER THEREOF; WHICH NORTHWEST CORNER IS 2652.23 FEET WESTERLY FROM THE CENTER LINE OF MILITARY TRAIL; THENCE CONTINUE SOUTHERLY, ALONG THE WEST LINE OF SAID SECTION 12, A DISTANCE OF 339.26 FEET; THENCE EASTERLY, MAKING AN ANGLE OF 86° 11' 30" WITH THE PRECEDING COURSE, MEASURED FROM NORTH TO EAST, A DISTANCE OF 661.93 FEET; THENCE NORTHERLY, MAKING AN ANGLE WITH THE PRECEDING COURSE OF 93° 51' 00", MEASURED FROM WEST TO NORTH, A DISTANCE OF 338.35 FEET; THENCE WESTERLY A DISTANCE OF 662.12 FEET TO THE POINT OF BEGINNING.

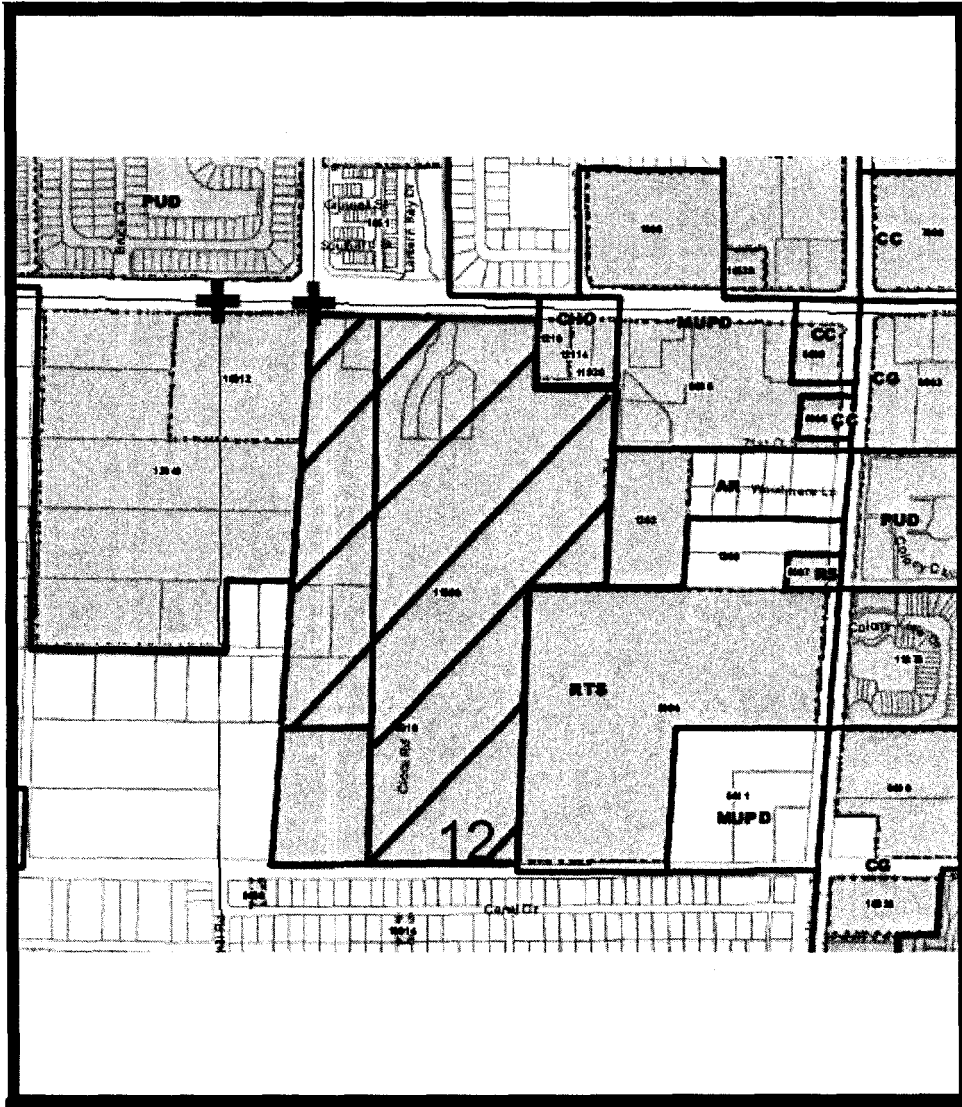
SUBJECT TO POTENTIAL RIGHT-OF-WAY FOR CLOCK ROAD OVER THE NORTH 20 FEET THEREOF.

LESS ANY PORTION OF THE ABOVE DESCRIBED LANDS CONVEYED IN THAT CERTAIN QUIT CLAIM DEED, RECORDED IN O.R. BOOK 3185, PAGE 941, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 3,075,805 SQUARE FEET OR 70.611 ACRES, MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1.All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-1047 (Control 2004-458), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2.Previous Condition ALL PETITIONS 1 of Resolution R-2005-1047, Control 2004-458, which currently states:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated May 12, 2005. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

Is hereby amended to read:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary site plan is dated December 16, 2009. All modifications to the development order must be approved by the Board of County Commissioners or Zoning Commission, unless the proposed changes are required to meet conditions of approval. (DRO: ZONING - Zoning)

#### ARCHITECTURAL REVIEW

1.At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the multi-family and daycare buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

#### DEPARTMENT OF AIRPORTS (DOA)

1.The property owner shall include in all homeowners documents as well as written sales brochures, sales contracts, Master Plans and related site plans a disclosure statement identifying and notifying prospective residents that the community is within the flight path of the Palm Beach County Park Airport. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on May 26, 2006 and shall continue on an annual basis until all units within the development have been sold or the property owner relinquishes control to the homeowners association. (DATE: MONITORING - Department of Airports) (Previous Condition DEPARTMENT OF AIRPORTS 1 of Resolution R-2005-1047, Control 2004-458)

#### DRO

1.Prior to final plan approval by the Development Review Officer (DRO), the site plan shall be revised to show pedestrian link pathways connecting each building, show the re-orientation of the dumpsters for pick-up and show the width of landscaping buffer between building 1 and recreation pod R-3 in Multi-family Pod. (DRO: ZONING-Zoning)

#### ENGINEERING

1.Previous Condition E1 of Zoning Resolution R-2005-1047, Control No. 2004-458, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the property

owner shall be restricted to the following phasing schedule:

a. Building Permits for more than 141 single family dwelling units shall not be issued until construction has begun for 6 laning Hypoluxo Road from Jog Road to Military Trail plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)

b. No Building Permits for the site may be issued after January 1, 2009. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2 Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the property owner shall be restricted to the following phasing schedule:

a. Building Permits for more than 141 single family dwelling units shall not be issued until construction has begun for 6 laning Hypoluxo Road from Jog Road to Military Trail plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng) [Note: COMPLETED]

b. No Building Permits for the site may be issued after December 31, 2018. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2 Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. Previous Condition E2 of Zoning Resolution R-2005-1047, Control No. 2004-458, which currently states:

**LANDSCAPE WITHIN THE MEDIAN OF HYPOLUXO ROAD**

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Hypoluxo Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by the property owner shall be perpetually maintained by the property owner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

c. At the property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner. (ONGOING: ENG)

d. Also, prior to the issuance of a Building Permit, and at the option of the property owner, the property owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Hypoluxo Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGONG-

ENG)

Is hereby amended to read:

#### Landscape Within the Median of Hypoluxo Road

The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of Hypoluxo Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioner's approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

c. At property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING-Eng)

d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Hypoluxo Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDG PERMIT: MONITORING -Eng)

3. Previous Condition E3 of Zoning Resolution R-2005-1047, Control No. 2004-458, which currently states:

Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Hypoluxo Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING-Eng)

Is hereby amended to read:

Prior to the issuance of the first building permit, the property owner shall provide a temporary roadway construction easement to Palm Beach County along Hypoluxo Road. This roadway construction easement shall also contain an isosceles trapezoid connecting the sight triangles across this property owner's entrance. The property owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT: MONITORING-Eng)



4. The Property owner shall construct a right turn lane west approach on Hypoluxo Road at Project Entrance. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

b. Construction for this improvement shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)  
(Previous Condition E4 of Zoning Resolution R-2005-1047, Control No. 2004-458)

5. On or before December 1, 2005 the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Hypoluxo Road along the property frontage; and up to a maximum of an additional 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. (DATE: MONITORING-Eng)

(Previous Condition E5 of Zoning Resolution R-2005-1047, Control No. 2004-458)

[Note: Easements are being held in escrow]

6. Prior to plat recordation, the property owner shall obtain from the Lake Worth Drainage District additional right of way to provide for the construction of:

- i. a right turn lane on Hypoluxo Road at the project's entrance road; and
- ii. expanded intersection right of way at Haverhill Road and Hypoluxo Road.

Property obtained from the Lake Worth Drainage District shall be conveyed to Palm Beach County Land Development Division in the form of a road right of way warranty deed. Right of way for the proposed right turn lane shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. All additional right of way obtained from the Lake Worth Drainage District shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (PLAT: ENGINEERING - Eng)

(Previous Condition E6 of Zoning Resolution R-2005-1047, Control No. 2004-458)

[Note: COMPLETED]

7. Prior to issuance of the first building permit the property owner shall re-plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. The platting of this property may be phased in accordance with a phasing plan

acceptable to the Office of the County Engineer and approved by the Development Review Officer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. (BLDG PERMIT: MONITORING-Eng)

8. The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 50 feet of right of way from centerline of Haverhill Road prior to the issuance of the first building permit. Right of way conveyance shall be along the project's frontage approximately from just south of the 50-ft FPL easement to Hypoluxo Road and shall be free and clear of all encumbrances and encroachments. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer additional right of way for Expanded Intersections and corner clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the property owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT: MONITORING-Eng)

9. The Property owner shall construct:

- i. Haverhill Road as a two-lane, one-way northbound section from the project's egress-only driveway to Hypoluxo Road
- ii. A left turn lane and shared right turn/through lane at the south approach on Haverhill Road at Hypoluxo Road
- iii. An egress-only connection to Haverhill Road, within the Project's Haverhill Road right of way dedication

The construction within the Project's Haverhill Road right of way dedication area shall be to Thoroughfare Road standards. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, design costs, utility and canal relocations, canal crossings, signal modifications and acquisition of any additional required right-of-way.

a. Permits for this construction shall be obtained from the Land Development Division, Permit Section. Construction for these improvements shall commence prior to the issuance of the 175th Building Permit or equivalent number of trips, as determined by the County Engineer. (BLDG PERMIT: MONITORING-Eng)

b. Construction shall be completed prior to the issuance of the 175th Certificate of Occupancy or equivalent number of trips, as determined by the County Engineer. (CO: MONITORING-Eng)

10. Costs associated with design and construction as outlined in Condition 9.i. and 9.ii above shall be impact fee creditable. (ONGOING: ENGINEERING-Eng)

#### ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING:ERM-ERM) (Previous Condition No. ERM-1 of Resolution No. R-2005-1047, Control No. 2004-458)

#### LANDSCAPE - GENERAL-STANDARDS

1. All palms required to be planted on the property by this approval, except on individual residential lots, shall meet the following minimum standards at installation:

- a. palm heights: twelve (12) feet clear trunk;
- b. clusters: staggered heights twelve (12) to eighteen (18)

feet; and,

c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition LANDSCAPE STANDARDS 1 of Resolution R-2005-1047, Control 2004-458)

2.A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition LANDSCAPE STANDARDS 2 of Resolution R-2005-1047, Control 2004-458)

3.Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition LANDSCAPE STANDARDS 3 of Resolution R-2005-1047, Control 2004-458)

4.Prior to final approval by the Development Review Officer (DRO), all landscape focal points shall be:

- a. subject to review and approval by the Landscape Section; and,
- b. reflected on the Regulating Plan. (DRO: LANDSCAPE - Zoning) (Previous Condition LANDSCAPE STANDARDS 4 of Resolution R-2005-1047, Control 2004-458)

#### LANDSCAPE - GENERAL

5.Prior to final site plan approval by the Development Review Officer, the property owner shall amend the site plan and regulating plan to provide a continuous native 6-foot high opaque screening (hedge, fence, berm or combination thereof) along all portions of the site that abut existing residential uses and along Hypoluxo Road Frontage. ( DRO: ZONING - Landscape )

6.Along the southern most property all new trees to be planted in the landscape buffers shall be installed at a height of fourteen (14) feet. (DRO: ZONING - Landscape)

#### PLANNED DEVELOPMENT

1.Prior to the recordation of the first plat, all property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:

- a. Formation of a single master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.
- b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.
- c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: COUNTY ATTY - Zoning) (Previous Condition PUD 1 of Resolution R-2005-1047, Control 2004-458)

2.Previous Condition PUD 2 of Resolution R 2005-1047, Control 2004-458, which, currently states:

Prior to final approval by the Development Review Officer (DRO), the Site/Regulating Plans shall be amended to indicate upgraded recreation amenities within both the .48-acre and .54-acre recreation areas. These additional amenities shall:

- a. be accessible from a minimum five (5) foot wide paved pathway composed of stamped concrete, paver blocks, or other improved surface;

- b. include a minimum of three (3) pedestrian benches;
- c. include a minimum of one (1) trash receptacle adjacent to each pedestrian bench;
- d. include a shade structure (eg. trellis, gazebo, pergola) and tot lot, fitness station, rest station, sport court, or similar recreation amenity; and,
- e. details for all items indicated above shall be subject to review and approval by Architectural Review Section. (DRO: ZONING - Zoning)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the Site/Regulating Plans shall be amended to indicate upgraded recreation amenities within both recreation areas, Tract R-2 and Tract R-3. These additional amenities shall:

- a. be accessible from a minimum five (5) foot wide paved pathway composed of stamped concrete, paver blocks, or other improved surface;
- b. include a minimum of three (3) pedestrian benches;
- c. include a minimum of one (1) trash receptacle adjacent to each pedestrian bench;
- d. include a shade structure (eg. trellis, gazebo, pergola) and tot lot, fitness station, rest station, sport court, or similar recreation amenity; and,
- e. details for all items indicated above shall be subject to review and approval by Architectural Review Section. (DRO: ZONING - Zoning)

3. Prior to final approval by the Development Review Officer (DRO), the Master/Site Plans shall be amended to consolidate the open spaces into a single open space containing no less than .81 gross acre. (DRO: ZONING - Zoning) (Previous Condition PUD 3 of Resolution R-2005-1047, Control 2004-458)

Is hereby deleted. [REASON: no longer applicable.]

4. Previous Condition PUD 4 of Resolution R 2005-1047, Control 2004-458, which, currently states:

Prior to final approval by the Development Review Officer (DRO), the Site/Regulating Plans shall be amended to indicate the following additional amenities within the .49-acre recreation area:

- a. a minimum of two (2) shade structures (gazebo, trellis, pergola, etc.);
- b. a trash receptacle adjacent to each bench;
- c. a pedestrian plaza containing a minimum of 2,000 square feet of decorative paving block or stamped concrete surface shall be located in the general vicinity of the adjacent 1.9-acre lake;
- d. a minimum of four (4) pedestrian benches shall be located upon the pedestrian plaza and oriented toward the adjacent lake;
- e. all amenities shall include a direct connection to a minimum five (5) foot wide paved pathway composed of stamped concrete, paver blocks, or other improved surface; and,
- f. details for all amenities shall be subject to review and approval by the Architectural Review Section. (DRO: ZONING - Zoning)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the Site/Regulating Plans shall be amended to indicate the following additional amenities within the Tract R-1 recreation area:

- a. one (1) shade structures (gazebo, trellis, pergola, etc.);
- b. a trash receptacle adjacent to each bench;
- c. a pedestrian plaza containing a minimum of 1,000 square feet of decorative paving block or stamped concrete surface shall be located in the general vicinity of the adjacent lake;
- d. a minimum of two (2) pedestrian benches shall be located upon the pedestrian plaza and oriented toward the adjacent lake;
- e. all amenities shall include a direct connection to a minimum five (5) foot wide paved

pathway composed of stamped concrete, paver blocks, or other improved surface; and,  
f. details for all amenities shall be subject to review and approval by the Architectural Review Section. (DRO: ZONING - Zoning)

5. Prior to the issuance of a building permit for the 100th unit, a Certificate of Occupancy (CO) shall be issued for a clubhouse or similar common building exceeding 2,500 total square feet on the Tract R-2 recreational parcel. This facility shall be equipped with a generator that complies with the following requirements:

- a. a minimum load capacity of .02 kw per building square foot;
- b. operates essential electrical systems, including A/C systems, for a minimum of thirty percent (30%) of the gross interior floor area of the building;
- c. an aboveground fuel storage system, or an alternative fuel storage system that is acceptable to Palm Beach County, with a minimum capacity that is acceptable to the Building Division shall be located adjacent to the generator;
- d. setback in accordance with the Property Development Regulations for a Civic Pod in accordance with ULDC Table 3.E.2.D-16;
- e. screened from view on all sides by an opaque barrier constructed of compatible materials, color and character as the building or equivalent landscaping;
- f. subject to review and approval by the Building Division; and,
- g. deviation from these requirements shall be permitted if consistent with future ULDC regulations. (BLDG PERMIT: MONITORING - Zoning) (Previous Condition PUD 5 of Resolution R-2005-1047, Control 2004-458)

6. Prior to final approval by the Development Review Officer (DRO), the Regulating Plan shall be amended to include the following detail for landscaping along the perimeter of the 150-foot wide FPL easement:

- a. a six (6) foot high vinyl coated chain link fence;
- b. a minimum of one (1) canopy tree for each twenty (20) linear feet of fence. Trees shall be planted on the exterior side of the fence at a maximum spacing of thirty (30) feet on center;
- c. a minimum of one (1) palm or pine tree for each thirty (30) linear feet of fence, to be planted on the exterior side of the fence;
- d. a continuous row of medium shrub shall be planted between all trees and palms on the exterior side of the fence; and,
- e. all landscaping shall be subject to review and approval by FPL. (DRO:ZONING-Zoning) (Previous Condition PUD 6 of Resolution R-2005-1047, Control 2004-458)

Is hereby deleted.[REASON:no longer applicable.]

## PLANNING

1. Condition Planning 1. of Resolution R-2005-1047, Control No. 2004-458, which currently states:

Prior to final subdivision plan approval by the Development Review Officer (DRO), the notation on the certified master plan, dated May 12, 2005, at the western portion of the site, (labeled as cross access to be paved to the property line with gated access") shall be revised to read proposed vehicular and pedestrian cross access to be paved to the property line." This access point may be controlled by a gate or other security device that can be controlled by the residents of the PUD. (DRO:PLANNING-Planning)

Is hereby deleted.[REASON:no longer applicable.]

2. Condition Planning 2. of Resolution R-2005-1047, Control No. 2004-458, which currently states:

Prior to the issuance of the first certificate of occupancy, the property owner shall pave the property to the edge of the western property line with a break in any buffering or walls at the location shown on the final subdivision plan that will read proposed vehicular and pedestrian cross access to be paved to the property line".

(CO:PLANNING-Planning)

Is hereby deleted.[REASON:no longer applicable.]

3.Condition Planning 3. of Resolution R-2005-1047, Control No. 2004-458, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall record cross access easements, in a form acceptable to the County Attorney, for any approved vehicular cross access connection. (DRO:COUNTY ATTY-Planning)

Is hereby deleted.[REASON:no longer applicable.]

4.Condition Planning 4. of Resolution R-2005-1047, Control No. 2004-458, which currently states:

Prior to final subdivision plan approval by the Development Review Officer (DRO), the final subdivision plan shall include all pathways, benches, and pedestrian access to the open space area, lakes tracts, private civic area, and recreation area generally consistent with the certified master plan dated, May 12, 2005. (DRO: PLANNING-Planning)

Is hereby amended to read:

Prior to final subdivision plan approval by the Development Review Officer (DRO), the final subdivision plan shall include all pathways, benches, and pedestrian access to the open space area, lakes tracts, private civic area and all recreation areas. (DRO: PLANNING-Planning)

5.Condition Planning 5. of Resolution R-2005-1047, Control No. 2004-458, which currently states:

Prior to final subdivision plan approval by the Development Review Officer (DRO), the final subdivision plan shall be revised to indicate a vehicular and pedestrian stub street connection to the adjacent property to the northeast. The note on the certified master plan, dated May 12, 2005, that reads pedestrian & bike access to be paved to the property line" shall be revised to read" proposed vehicular and pedestrian cross access to be paved to the property line." This access point may be controlled by a gate or other security device that can be controlled by the residents of the PUD. (DRO:PLANING-Planning)

Is hereby amended to read:

Prior to final subdivision plan approval by the Development Review Officer (DRO), the final subdivision plan shall be revised to indicate a pedestrian connection to the adjacent property to the northeast. The note shall read "proposed pedestrian and bike cross access to be paved to the property line." This access point may be controlled by a gate or other security device that can be controlled by the residents of the PUD. (DRO:PLANING-Planning)

6.Condition Planning 6. of Resolution R-2005-1047, Control No. 2004-458, which currently states:

Prior to the issuance of the first certificate of occupancy, the property owner shall pave the property to the edge of the northeastern property line with a break in any buffering or walls at the locations shown on the master plan that will read proposed vehicular and pedestrian cross access to be paved to the property line" (CO: MONITORING - Planning)

Is hereby amended to read:

Prior to the issuance of the first certificate of occupancy for that phase, the property owner shall pave the property to the edge of the northeastern property line with a break in any buffering or walls at the locations shown on the master plan that will read proposed pedestrian cross access to be paved to the property line" (CO: MONITORING - Planning)

7. Prior to final approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney, which includes but is not limited to the following:

Guarantees the attainability of all required workforce units required per article 5.G. in the ULDC. These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the requirements in Article 5.G. in the ULDC. (DRO: PLANNING Planning)

8. On an annual basis, beginning February 1, 2011, or as otherwise stipulated in the Declaration of Restrictive Covenants for Workforce Housing, the property owner, master homeowners association or individual Workforce Housing dwelling unit owner, shall submit an annual report/update to the Planning Division and HCD documenting compliance with the Declaration of Restrictive Covenants for Workforce Housing. (DATE/ONGOING: MONITORING Planning/HCD)

#### SCHOOL BOARD

1. Condition SCHOOL BOARD 1 of Resolution R-2005-1047, Control No. 2004-458, which currently states:

The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

#### NOTICE TO NAME BUYERS/TENANTS AND PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD-School Board)

Is hereby amended to read:

The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

#### "NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD)

2. Condition SCHOOL BOARD 2 of Resolution R-2005-1047, Control #2004-458, which currently states:

Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING School Board.)

Is hereby amended to read:

Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING School Board.)

#### SITE DESIGN

1. Building 1 shall be relocated to the south approximately 20'. (DRO: ZONING - Zoning)

2. Building 2 shall be limited to 2 stories. (DRO: ARCH REVIEW - Zoning)

#### COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code (ULDC) at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)