

RESOLUTION APPROVING ZONING APPLICATION PDD/DOA/R/TDR-2009-03303
(CONTROL NO. 2004-00458)
a Requested Use
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 Requested Use.

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 Requested Use to allow a Daycare, General in the Residential Planned Unit Development (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	- Absent
Commissioner Jeff Koons	- Absent
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Jess R. Santamaria	- Nay
Commissioner Priscilla A. Taylor	- Aye

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 1, 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



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

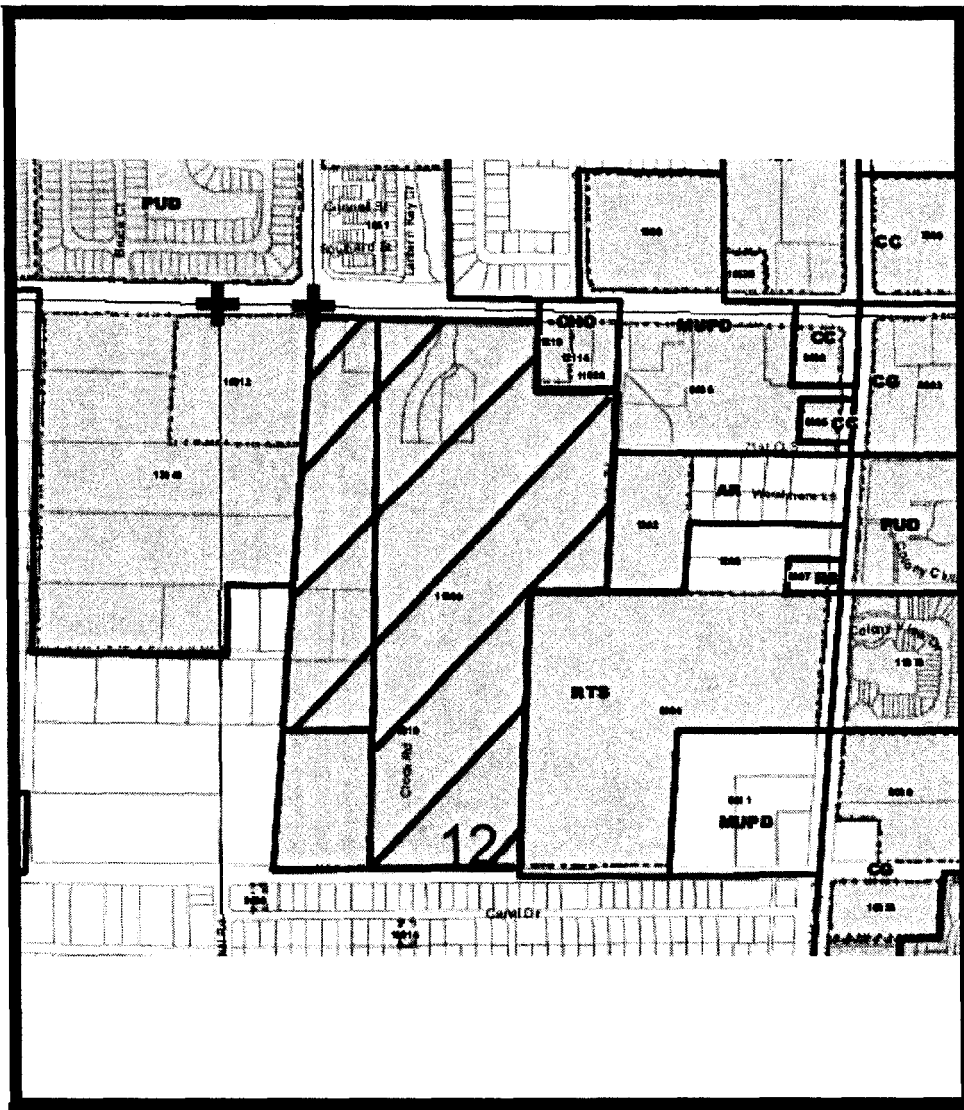


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site shall be generally consistent with the preliminary site plan dated December 16, 2009 and approved by the Board of County Commissioners/Zoning Commission. Modification of the site design may be allowed pursuant to conditions of approval or are in accordance with Article 2 of ULDC. Replacement of a use by another use listed as permitted by right or permitted subject to approval by the DRO may be allowed subject to approval by the DRO. All other modifications exceeding those thresholds established by conditions of approval or the ULDC must be approved by the Board of County Commissioners/Zoning Commission (ONGOING: ZONING-Zoning).

USE LIMITATIONS

1. The day care shall be limited to a maximum occupancy of 200 children. (ONGOING: CODE ENF-Zoning)

2. Hours of operation for the daycare shall be limited to 6 a.m. to 6 p.m. Monday through Friday. (ONGOING: CODE ENF - Zoning)

3. Hours of operation for outdoor activities shall be limited to 9 a.m. to 5 p.m. daily. (ONGOING: CODE ENF-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)