

RESOLUTION NO. R-2012- 1053

RESOLUTION APPROVING ZONING APPLICATION ABN/DOA/R/TDR-2011-03177
(CONTROL NO. 2004-00458)
a Development Order Amendment Request
APPLICATION OF Hypoluxo Acquisition LLC, Trinacria Acquisition LLC
BY CMS Engineering, LLC, AGENT
(Toscana 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 ABN/DOA/R/TDR-2011-03177 was presented to the Board of County Commissioners at a public hearing conducted on May 24, 2012; 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 Request.

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 ABN/DOA/R/TDR-2011-03177, the petition of Hypoluxo Acquisition LLC, Trinacria Acquisition LLC, by CMS Engineering, LLC, agent, for a Development Order Amendment Request to reconfigure the Master Plan; to delete and modify Conditions of Approval (Engineering, Planned Development, and Site Design) and to add units 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 May 24, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

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

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 26, 2012

Filed with the Clerk of the Board of County Commissioners on July 31, 2012.

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

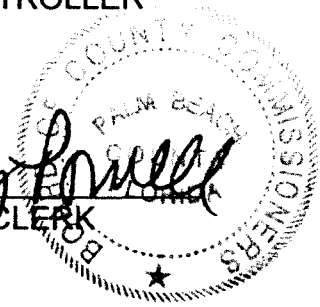


EXHIBIT A

LEGAL DESCRIPTION

ALL OF ISOLA BELLA ISLES - PHASE I, AS RECORDED IN PLAT BOOK 111, PAGES 119 THROUGH 122 OF PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

TOGETHER WITH:

TRACT 14, AND THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER, OF THE NORTHWEST ONE-QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, AS SHOWN ON THE AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET. AL., AS RECORDED IN PLAT BOOK 9, PAGE 74, LYING SOUTH OF THE LAKE WORTH DRAINAGE DISTRICT CANAL L-18, AS RECORDED IN OFFICIAL RECORD BOOK 7511, PAGE 1952, ALL OF PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID ISOLA BELLA ISLES - PHASE I; THENCE SOUTH $88^{\circ}50'23''$ EAST ALONG THE NORTH LINE THEREOF, A DISTANCE OF 777.25 FEET; THENCE SOUTH $02^{\circ}19'29''$ WEST ALONG THE EAST LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 316.08 FEET; THENCE SOUTH $89^{\circ}12'21''$ EAST ALONG THE NORTH LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 385.72 FEET; THENCE SOUTH $02^{\circ}52'11''$ WEST ALONG THE EAST LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 962.15 FEET; THENCE NORTH $89^{\circ}35'07''$ WEST ALONG THE SOUTH LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 376.64 FEET; THENCE SOUTH $02^{\circ}19'29''$ WEST ALONG THE EAST LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 1,336.39 FEET; THENCE SOUTH $89^{\circ}36'43''$ WEST ALONG THE SOUTH LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 724.74 FEET; THENCE NORTH $01^{\circ}10'08''$ EAST ALONG THE WEST LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 686.29 FEET; THENCE NORTH $89^{\circ}19'20''$ WEST ALONG THE SOUTH LINE OF SAID TRACT 14 OF THE AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET. AL., A DISTANCE OF 434.49 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST; THENCE NORTH $04^{\circ}29'07''$ EAST SAID WEST LINE, A DISTANCE OF 1,956.51 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID LAKE WORTH DRAINAGE DISTRICT CANAL L-18; THENCE SOUTH $89^{\circ}00'25''$ EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 4.77 FEET; THENCE SOUTH $88^{\circ}50'23''$ EAST, A DISTANCE OF 316.53 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 3,075,805 SQUARE FEET OR 70.6108 ACRES MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH

EXHIBIT B
VICINITY SKETCH

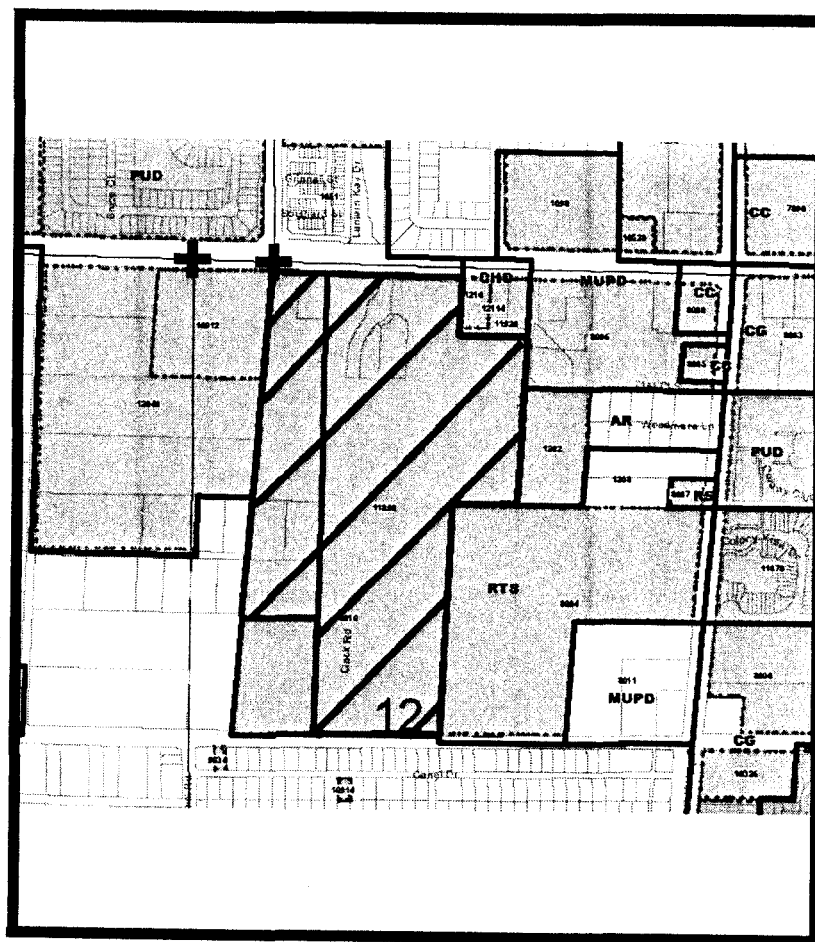


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. 1. Previous Condition ALL PETITIONS 1 of Resolution R-2010-0308, Control 2004-458, which currently states:

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)

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2010-0308 (Control2004-0458), 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 2 of Resolution R-2010-0308, Control 2004-458, which currently states:

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)

Is hereby amended to read:

The approved Preliminary Master Plan is dated March 15, 2012. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code must be approved by the Board of County Commissioners. (DRO: ZONING - Zoning)

3. Prior to final approval by the Development Review Officer, the plan(s) shall be amended to indicate a maximum of 414 units, which includes a maximum of 206 multi-family units. (DRO:ZONING-Zoning)

ARCHITECTURAL REVIEW

1.At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for the multi-family buildings shall be submitted for final architectural review and approval. Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be designed to be generally consistent with the facade elevations prepared by Marc Weiner and dated December 20, 2011. 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-2010-0308, Control 2004-458)

DRO

1. Previous Condition DRO 1 of Resolution R-2010-0308, Control 2004-458, which currently states:

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)

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

ENGINEERING

1. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng) (Previous Condition E1 of Resolution R-2010-0308 Control No. 2004-458)

2. 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) (Previous Condition E2 of Resolution R-2010-0308, Control No. 2004-458)

3. 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) (Previous Condition E3 of Resolution R-2010-0308, Control No. 2004-458)

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 Resolution R-2010-0308, 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 wing wall 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 Resolution R-2010-0308, 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 Resolution R-2010-0308, 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) (Previous Condition E7 of Resolution R-2010-0308, Control No. 2004-458)

8. The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 40 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) (Previous Condition E8 of Resolution R-2010-0308, Control No. 2004-458)

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) (Previous Condition E9 of Resolution R-2010-0308, Control No. 2004-

458)

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) (Previous Condition E10 of Resolution R-2010-0308, Control No. 2004-458)

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. ENVIRONMENTAL 1 of Resolution No. R-2010-0308, Control No. 2004-458)

LANDSCAPE - GENERAL

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 GENERAL 1 of Resolution R-2010-0308, 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 GENERAL 2 of Resolution R-2010-0308, 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 GENERAL 3 of Resolution R-2010-0308, 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 GENERAL 4 of Resolution R-2010-0308, Control 2004-458)

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) (Previous Condition LANDSCAPE GENERAL 5 of Resolution R-2010-0308, Control 2004-458)

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) (Previous Condition LANDSCAPE GENERAL 6 of Resolution R-2010-0308, Control 2004-458)

7. LANDSCAPING ALONG THE NORTH PROPERTY LINE (FRONTAGE OF HYPOLUXO ROAD)

In addition to code requirements, the proposed landscaping along the north property line shall be upgraded to include:

- a. a minimum of twenty five (25) feet in buffer width;
- b. a continuous berm with a minimum height of three and one half (3.5) feet;

- c. a six (6) foot high decorative metal fence shall be installed at the top of the berm. Concrete columns shall be installed with a minimum spacing of thirty (30) feet on center. Columns shall be provided with an architectural treatment that is compatible with the multi-family buildings;
- d. a minimum of fifty (50) percent of the required canopy trees shall be installed at a minimum height of sixteen (16) feet at time of planting;
- e. one (1) palm or pine for each for each thirty (30) linear feet of the property line; and,
- f. a six (6) foot high hedge to be placed adjacent to the fence. The Code required large shrubs may be counted towards the hedge. (BLDG PERMIT: LANDSCAPE – Zoning)

8. LANDSCAPING ALONG THE SOUTH, EAST AND WEST PROPERTY LINES

In addition to code requirements, the proposed landscaping along the south, east and west property lines shall be upgraded to include:

- a. a minimum of twenty (20) feet in buffer width along the property lines adjacent to the site's zero lot line units;
- b. a six (6) foot high vinyl-coated chain link fence shall be installed, except in areas where the site abuts Agricultural uses;
- c. a minimum six (6) foot high opaque wall shall be installed in those areas adjacent to Agricultural uses. The property owner may seek for variance relief for the wall requirement if the intent is to preserve existing vegetation;
- d. one (1) palm or pine for each for each thirty (30) linear feet of the property line; and ,
- e. a six (6) foot high hedge to be placed adjacent to the fence. (BLDG PERMIT: LANDSCAPE – Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to Final Subdivision Plan Approval, LWDD will require the 10' UE and 5' LAE which are overlapping LWDD's L-18 Canal be removed from the Final Subdivision Plan. DRO APPROVAL; DRO-LWDD

PLANNING

Condition Planning 1 of R-2010-308, Control No. 2004-458, which currently states:

1. 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)

Is hereby amended to read:

1. Prior to Final Plan approval by the Development Review Officer (DRO), the Plans 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)

Condition Planning 2 of R-2010-308, Control No. 2004-458, , which currently states:

2. 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)

Is hereby amended to read:

2. Prior to Final Plan approval by the Development Review Officer (DRO), the Plans shall be revised to graphically shown the proposed pedestrian connection to the adjacent property to the northeast. In addition, the note stating: "proposed pedestrian and bike cross access to be paved to the property line." shall be placed on the applicable Plans. 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)

3. 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) (Previous Condition Planning 3 of R-2010-308, Control No. 2004-458)

4. 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) (Previous Condition Planning 4 of R-2010-308, Control No. 2004-458)

5. Previous Condition Planning 5 of R-2010-308, Control No. 2004-458, which currently states:

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.

Is hereby amended to read:

On an annual basis, beginning May 1, 2013, 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. 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) (Previous Condition SCHOOL BOARD 1 of Resolution R-2010-0308, Control No. 2004-00458)

2. Condition SCHOOL BOARD 2 of Resolution R-2010-0308, Control No. 2004-00458, 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. 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 property owner 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. Previous Condition SITE DESIGN 1 of Resolution R-2010-0308, Control 2004-458, which currently states:

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

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

2. Previous Condition SITE DESIGN 2 of Resolution R-2010-0308, Control 2004-458, which currently states:

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

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

1. Prior to final approval by the Development Review Officer, the three (3) multi-family building that front on Hypoluxo Road shall be revised to include:

a. an additional thirty-five (35) foot setback for the north end of each building. The setbacks third (3rd) story of each building and measured from the internal edge of the right-of-way landscape buffer. (DRO: ZONING - Zoning).

USE LIMITATIONS

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 PLANNED DEVELOPMENT 1 of Resolution R-2010-0308, Control 2004-458)

2. 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) (Previous Condition PLANNED DEVELOPMENT 2 of Resolution R-2010-0308, Control 2004-458)

3.Previous Condition PLANNED DEVELOPMENT 4 of Resolution R-2010-0308, 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 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)

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 neighborhood park:

- 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)

4.Previous Condition PLANNED DEVELOPMENT 5 of Resolution R-2010-0308, Control 2004-458, which currently states:

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)

Is hereby amended to read:

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. (BLDG PERMIT: MONITORING - 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) (Previous Condition COMPLIANCE 1 of Resolution R-2010-0308, Control 2004-458)

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) (Previous Condition COMPLIANCE 2 of Resolution R-2010-0308, Control 2004-458)