

RESOLUTION NO. R-2010 -0310

RESOLUTION APPROVING ZONING APPLICATION PDD/DOA/R/TDR-2009-03303
(CONTROL NO. 2004-00458)
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
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 the Unified Land Development Code; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Process) 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 as a development order 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, this approval is subject to Article 2.E (Monitoring) of the Palm Beach County Unified Land Development Code (ULDC) 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 Transfer of Development Rights and Article 5.G.2.K:

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that 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 application of Hypoluxo Acquisition LLC by CMS Engineering, LLC, agent, for a Transfer of Development Rights to allow the Transfer of Development Rights for 126 units and approved the reduced cost of \$1.00 per unit for the Transfer of Development Rights units on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as 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
Commissioner Priscilla A. Taylor

- Nay
- 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

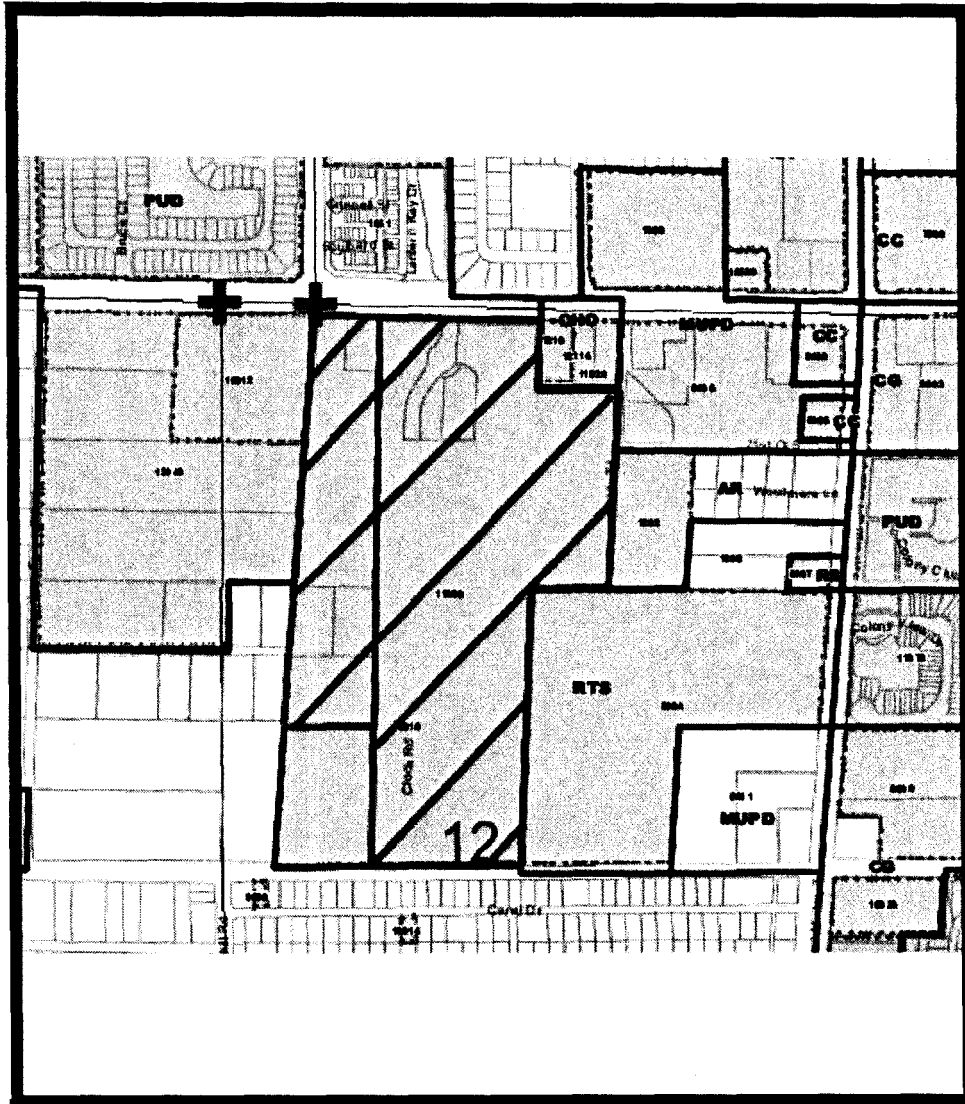


EXHIBIT C

CONDITIONS OF APPROVAL

TRANSFER OF DEVELOPMENT RIGHTS

1. Any additional increase in density must be requested through the Transfer of Development Rights (TDR) program. (ONGOING: ZONING - Planning)

2. At time of submittal for final approval by the Development Review Officer (DRO), an official 'Contract for Sale and Purchase of Transfer of Development Rights (TDR) Units', 'TDR Escrow Agreement', and 'TDR Deed' shall be submitted for final review and execution. (DRO: ZONING - Zoning)

3. Prior to final approval by the Development Review Officer (DRO, two (2) recorded copies of the 'Contract for Sale and Purchase of Transfer of Development Rights (TDRs)' shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning)

4. Prior to the issuance of the first building permit, a deed conveying the applicable Transfer of Development Rights (TDR) units from the County TDR bank to the subject property, shall be executed and recorded in a manner and form approved by the Office of the County Attorney. (Note: this condition does not apply to building permits issued for sales models and/or a temporary real estate sales and management office permitted pursuant to the Unified Land Development Code standards.) (BLDG PERMIT: MONITORING - Zoning)

5. The Master Plan dated December 16, 2009 and perimeter/internal buffers shown thereon shall not be modified unless approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

6. Prior to final approval by the Development Review Officer (DRO), the property owner/applicant shall perform the following:

- a. Execute a Contract for sale and Purchase of Transfer of Development of Right (TDRs) in a manner and form approved by the County Attorney, and formally executed by the Chairperson of the Board of County Commissioners. The Contract shall accommodate a maximum of one hundred and twenty-six (126) additional TDR units at a selling price of one dollar (\$1.00) per unit.
- b. Monies representing one hundred twenty-six (126) number of TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County or the non-refundable monies shall be paid to Palm Beach County. (DRO: COUNTY ATTORNEY/ZONING-Zoning).

COMPLIANCE-TRANSFER OF DEVELOPMENT RIGHTS

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)

COMPLIANCE-TRANSFER OF DEVELOPMENT RIGHTS

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)