

**PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING DEPARTMENT  
ZONING DIVISION**



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**Application No.:** ABN/DOA/R/TDR-2011-03177  
**Control No.:** 2004-00458  
**Applicant:** Hypoluxo Acquisition LLC  
Trinacria Acquisition LLC  
**Owners:** Hypoluxo Acquisition Llc  
Trinacria Acquisition Llc  
**Agent:** CMS Engineering, LLC - Pol Africano  
**Telephone No.:** (561) 364-3660  
**Project Manager:** David McGuire, Site Planner II

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**Location:** Site is located along the south side of Hypoluxo Road east of Haverhill Road and approximately 1,560 feet west of Military Trail. (Toscana Isles PUD)

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**TITLE:** a Development Order Abandonment REQUEST: to abandon Resolutions R-2005-1048, R-2005-1049, and R-2010-0310 **TITLE:** a Development Order Amendment REQUEST: to reconfigure the Master and Subdivision Plans; to modify and delete Conditions of Approval (Engineering, Planned Development, and Site Design); and to add units **TITLE:** a Requested Use REQUEST: to allow the Transfer of Development Rights (TDR's) **TITLE:** a Transfer of Development Rights REQUEST: to allow the purchase of 185 Transfer of Development Rights (TDR's) units and designate the site as a receiving area

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**APPLICATION SUMMARY:** Proposed is a Development Order Amendment (DOA) for the Toscana Isles Planned Unit Planned Development District (PUD) formerly known as Isola Bella Isles PUD and Nicola PUD. The 70.61-acre parcel was originally approved by the Board of County Commissioners (BCC) on March 26, 2005 to allow a PUD.

The applicant is requesting to reconfigure the Master and Subdivision Plans and to add units; to abandon Resolutions R-2005-1049, R-2005-1048 and R-2010-0310 which allowed for the Transfer of Development Rights (TDRs) under prior ordinances and Waivers to the number of cul-de-sacs; and, to modify and delete Conditions of Approval (DRO, Engineering, Planned Development and Site Design) in order to implement the proposed changes to the Master and Subdivision Plans. The Preliminary Master Plan indicates a total of 459 units with 253 Zero Lot Line (ZLL) units and 206 Multifamily (MF) units and a 10,000 square foot General Daycare use with 200 students. A total of 33 parking spaces will be provided for the previously approved General Daycare and two access points shall remain from Haverhill Road and Hypoluxo Road.

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**ISSUES SUMMARY:**

o Project History

On May 26, 2005, the BCC approved a rezoning from the Agricultural Residential (AR) Zoning District to a PUD Zoning District which allowed 175 zero lot line units, 14 of which were approved through the TDR program via Resolution R-2005-1048. At the hearing, the Board also approved a Waiver allowing for a deviation from the maximum number of cul-de-sacs and dead-end streets within a PUD via Resolution R-2005-1049. Also, approved was the administrative abandonment for a Special

Exception for an 11.38-acre parcel within the boundaries of the 53.68-acre site via Resolution R-2005-1046 (Control 79-144). The TDR's, approved at that time, were at a price of \$25,000 per unit.

On February 25, 2010, the BCC approved a DOA which added a 16.92-acres parcel of land and rezoned it from the AR Zoning District to PUD District for a total of 70.61-acres, requested an additional 126 TDR units, added a General Daycare Requested Use and modified the Conditions of Approval (Planning and Zoning). The TDR's, approved at that time, were at a price of \$1.00 per unit.

The modifications to the Preliminary Master Plan indicated a 70.61-acre development area supporting 253 ZLL units and 161 MF units for a total of 414 residential units. Of the 414 units approved, 126 of the units were allowed through the TDR program and to be purchased at a reduced fee of \$1.00. All 126 TDR units were required by BCC Conditions to be provided as Workforce Housing.

o Consistency with Comprehensive Plan

The Planning Division has determined that the requests are consistent with the Low Residential 3 (LR-3) land use designation and the TDR density provisions of the Comprehensive Plan. The development is located within the area of the West Boynton Area Community Plan and is not inconsistent with identified recommendations. See Staff Review and Analysis for additional information from the Planning Division.

o Compatibility with Surrounding Land Uses

NORTH:

FLU Designation: Low Residential (LR-3)

Zoning District: Residential Planned Unit Development District (PUD)

Supporting: Residential (Lantern Key PUD, Control No 00-890)

Supporting: Residential (Concept Homes of Lantana, Control No 77-675)

SOUTH:

FLU Designation: Low Residential (LR-3)

Zoning District: Agricultural Residential District (AR)

Supporting: Residential (Biltmore Terrace, Control No N/A)

EAST:

FLU Designation: Commercial Low-Office, with an underlying LR-3 (CL-O/3)

Zoning District: Medical and Professional Offices, Multiple Use Planned Development District (MUPD), Nursery and Place of Worship with Daycare and Private School.

Supporting: Commercial (Turtle Cove Professional Plaza, Control No 03-040)

Supporting: Commercial (Hypoluxo Village MUPD, Control No 01-612)

Supporting: Commercial (a wholesale nursery business, Control No 81-753)

Supporting: Commercial (Trinity Church International day care center, Control No 08-1138)

WEST:

FLU Designation: Low Residential (LR-3)

Zoning District: Residential Planned Unit Development District (PUD)

Supporting: Residential (Vista Lago, Control No 2005-289)

Supporting: Residential (Abell Property PUD, Control No 2006-154)

Uses adjacent to the subject parcel are compatible residential uses to the north, south and east. Subject to the provision of the required landscape buffers and the recommended conditions of approval, staff does not anticipate any adverse impacts to the surrounding properties from the requests.

o PDD and PUD Exemplary Design

Article 3.E.2.A.4 of the ULDC states the objective of a Planned Development District is to encourage ingenuity, imagination and design efforts on the part of the builders, architects, site planners and developers, to produce development that is in keeping with overall land use intensity and open space

objectives of the Unified Land Development Code (ULDC) and the Comprehensive Plan, while departing from the strict application of the dimensional standard of the traditional districts. With this petition the applicant is requesting a density bonus, and exemplary design is required for any Planned Development District per the ULDC. The proposed site plan and commitments made within the applicant's Justification Statement submitted during the review process provide the following features to achieve the following PUD exemplary design objectives:

- decorative paving treatment at the site's entrance on Hypoluxo Road, roadway intersections and roadway "eyebrows";
- landscape/focal points adjacent to the site's entrance drive and at terminus points of internal roadways, and at the roadway "eyebrow";
- lakes that consists of 19.5% of the total property with a fountain as a focal point within the main lake. This lake system not only serves the drainage requirements for the development but is oversized to accommodate the drainage requirements for the widening of Hypoluxo Road. These lakes provide an amenity to overall community;
- recreation area in excess of minimum ULDC requirements. There are two recreation tracts that exceed the ULDC requirements both of which have a clubhouse/pool, tot lot, and sports courts and there are additional open space areas such as the Neighborhood Park and the Open Space "park" located next to the "eyebrow";
- as indicated above, the perimeter landscape buffer is consistently 20 feet in width except where adjacent to retail or office at the northeast portion of the property, exceeding the minimum width of a 5 foot compatible buffer providing more opportunity to incorporate existing vegetation (as shown on the plan);
- providing a secondary pedestrian pathway system or exercise path adjacent to the FPL easement;
- a site design that allows the vast majority of the proposed lots to abut a landscape buffer, recreation/open space area, and/or lake tract. There are no back-to-back lots and minimal back-to-side lots;
- upgraded amenities within the designated recreation and open space areas throughout the development; and,
- a proposed day care facility on the private civic site to offer a service for the proposed development suited for families.

o Traffic

See Staff Review and Analysis for additional information from the Land Development and Traffic Divisions.

o Landscape/Buffering

The prior approvals of this development incorporated Conditions of Approval as indicated in Exhibit C-1. The proposed request to increase units and reconfigure the Master and Subdivision Plans does not create a need to modify the Landscape Conditions of Approval.

Refer to the Preliminary Master Plan and Regulating Plans for details on the buffers.

o Signs

The applicant is proposing two project Ground Mounted Entry Wall signs at the entrance to the subject site along Hypoluxo Road at 8-feet in height with a total of 60 square feet of sign face area as permitted in the ULDC. No sign conditions are proposed for this application. See Figure 6 for the details of the Preliminary Master Sign Plan.

o Architectural Elevations

The initial elevations for the proposed multi-family buildings have been prepared and submitted by Marc Wiener, AIA, dated December 20, 2011. (See Figures 7 and 8) The elevations were reviewed by the Architectural Review staff and found to be generally compliant with the relevant articles within the ULDC. They are, also, consistent with the surrounding built environment in form, materials and height.

The proposed development is subject to Article 5.C Architectural Guidelines. Staff is recommending that at time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the proposed building be submitted simultaneously with the site plan for final architectural review and approval. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements (See Architecture Condition 1).

o Transfer of Development Rights (TDR) Program

The Transfer of Development Rights (TDR program is the required method for increasing density within Palm Beach County. The purpose of the TDR program is to preserve agricultural and environmentally sensitive lands in perpetuity, thereby encouraging the most appropriate and efficient use of resources, services and facilities. Development rights are purchased by the County and credited to the County's TDR Bank, where the inventory of rights is maintained prior to their purchase and distribution to qualifying receiving areas. During the original PUD approval, the Planning Division previously determined that the subject site qualifies as a TDR receiving area, and that the applicant may purchase a maximum of 211 TDR units.

Application PDD/TDR/W/ABN/R 2004-00661, the first application, the applicant requested to purchase 126 TDR units at that time and a price of \$25,000, or a total of \$350,000. As a part of a second approval, Application PDD/POA/R/TDR 2009-03303, the applicant requested an additional 14 units, in which the Planning Division determined that the purchase was consistent with the Plan. The cost of these units was at a reduced price of \$1 for a total of \$14 and all 126 TDR units were required by BCC Conditions to be provided as Workforce Housing. This brought the total number of approved TDR's for the Development to 140 TDRs by the BCC (R-2005-1048 and R-2010-0310).

Under this application, the applicant has requested that the prior Development Orders for the purchase of TDR's be abandoned and they request to add a total of 185 TDR's (140 previously approved plus the current request 45 additional TDR's). The purpose of these requests is to bring all of the TDR's for the development under the current ULDC regulations as indicated in Ordinance 2003-062, as amended through Ordinance 2012-003. The applicant is requesting a total of 185 TDR's to be purchased: 129 obligated as Workforce Housing at \$378 each unit for a cost of \$48,762, and 56 TDR's at \$7,560 each unit for a cost of \$423,360. The total cost for the 185 TDR's is \$472,122.

The proposed development complies with the following TDR Receiving Areas requirements and standards as set forth in ULDC Articles 5.G.3.H and 5.G.3.K, as previously determined by the Planning Division. See Staff Review and Analysis for additional information from the Planning Division.

o Workforce Housing Program(WFP) and Transfer of Workforce Housing

This application is reviewed under the mandatory Workforce Housing provisions as indicated in Ordinance 2003-062, as amended through Ordinance 2012-003. The WFP provisions offer bonus density to increase the number of units for a property above those permitted by the property's land use designation.

Based on the Sector Analysis and the Workforce Housing Application, the Planning Division concluded that this project is allowed to utilize the workforce housing program and may be approved for up to 30 bonus density units, of which 30% would be required as Workforce Housing.

Through the WFP, the TDR program and the PUD density, the project may achieve an entitlement of 459 units. Of the 459 units, the applicant is required to provide 94 units as Workforce Housing. See Staff Review and Analysis from the Planning Division regarding the calculation for WHP.

The applicant is requesting to become a receiving area for Villaggio Isles PUD's (Control #2004-456; Application #2012-116) WHP obligation as allowed in Article 5.G.1.G. Villaggio Isles has a required WHP obligation of 64 units.

With a relocation of WFH for Villaggio Isles to the Toscana Isles Development the following lists the total number of units which would be restricted to be Workforce Housing. The total WFH Obligations are as follows:

Total Workforce Housing Obligation	
94 units	Toscana Isles
64 units	Villaggio Isles
158 units	Total WFH units to be placed on Toscana Isles

The Planning Division is recommending conditions of approval on both projects to ensure compliance with the relevant sections of the Plan and Code. (See Planning Conditions of Approval)

**TABULAR DATA**

	EXISTING	PROPOSED
<b>Property Control Number(s)</b>	00-42-45-12-00-000-3020 00-42-45-12-00-000-3040 00-42-45-12-03-014-0011 00-42-45-12-03-014-0013 00-42-45-12-03-014-0020 00-42-45-12-30-001-0000 00-42-45-12-30-012-0000 00-42-45-12-30-018-0000 00-42-45-12-30-023-0000 00-42-45-12-30-006-0000	Same
<b>Land Use Designation:</b>	Low Residential (LR-3)	Same
<b>Zoning District:</b>	Residential Planned Unit Development District (PUD)	Same
<b>Tier:</b>	Urban/Suburban	Same
<b>Use:</b>	Vacant	Single/Multi-Family Residential Day Care Center, General
<b>Acreage:</b>	70.61 acres	Same
<b>Dwelling Units:</b>	414 (253 ZLL, 161 MF)	459 (253 ZLL, 206 MF)
<b>Density:</b>	5.86 DU/Ac	6.5 DU/Ac
<b>Parking:</b>	889 spaces	926 spaces (+37 spaces)
<b>Access:</b>	Hypoluxo Road (1) and Haverhill Road (1)	Same

**PUBLIC COMMENT SUMMARY:** At the time of publication, staff had received 1 contact from the public regarding this project.

**RECOMMENDATION:** Staff recommends approval of the Development Order Abandonment; approval of the Development Order Amendment subject to 35 Conditions of Approval as indicated in Exhibit C-1; and, approval of the Requested Use subject to 7 Conditions of Approval as indicated in Exhibit C-2.

**MOTION:** To recommend approval of the Development Order Abandonment of Resolutions R-2005-1048, R-2005-1049, and R-2010-0310.

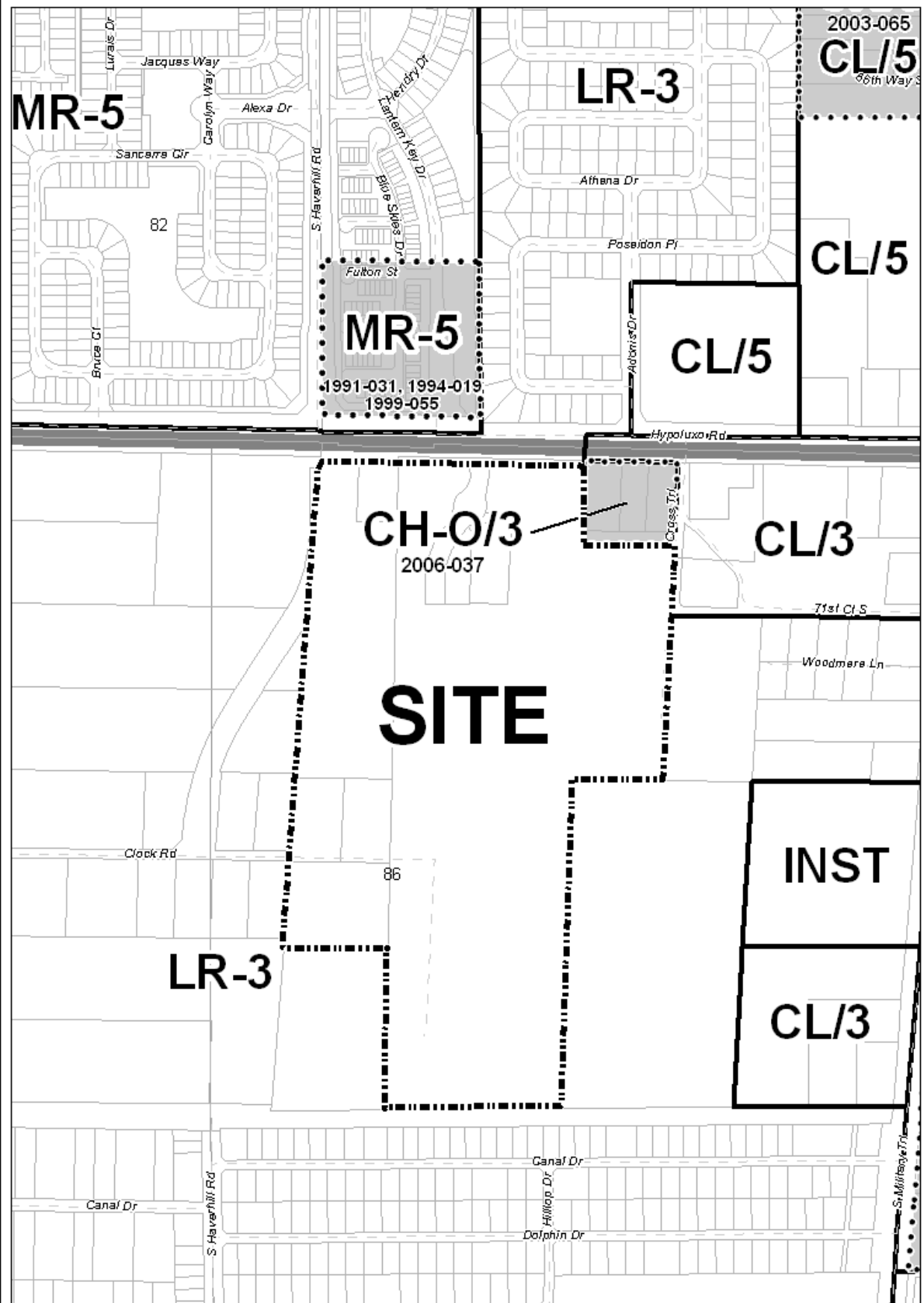
**MOTION:** To recommend approval of the Development Order Amendment to reconfigure the Master and Subdivision Plans; to modify and delete Conditions of Approval (Engineering, Planned

Development, and Site Design); and add units subject to the Conditions of Approval as indicated in Exhibit C-1.

MOTION: To recommend approval of the purchase of Transfer of Development Rights (TDR's).

MOTION: To recommend approval of the purchase of 185 Transfer of Development Rights (TDR's) units subject to the Conditions of Approval as indicated in Exhibit C-2.

# PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION AND LAND USE



Application Number: DOA/R/TDR-2011-3177  
 Control Number: 2004-458  
 Land Use Atlas Page: 86  
 Date: 03/30/2012



**Figure 1 Land Use Map**







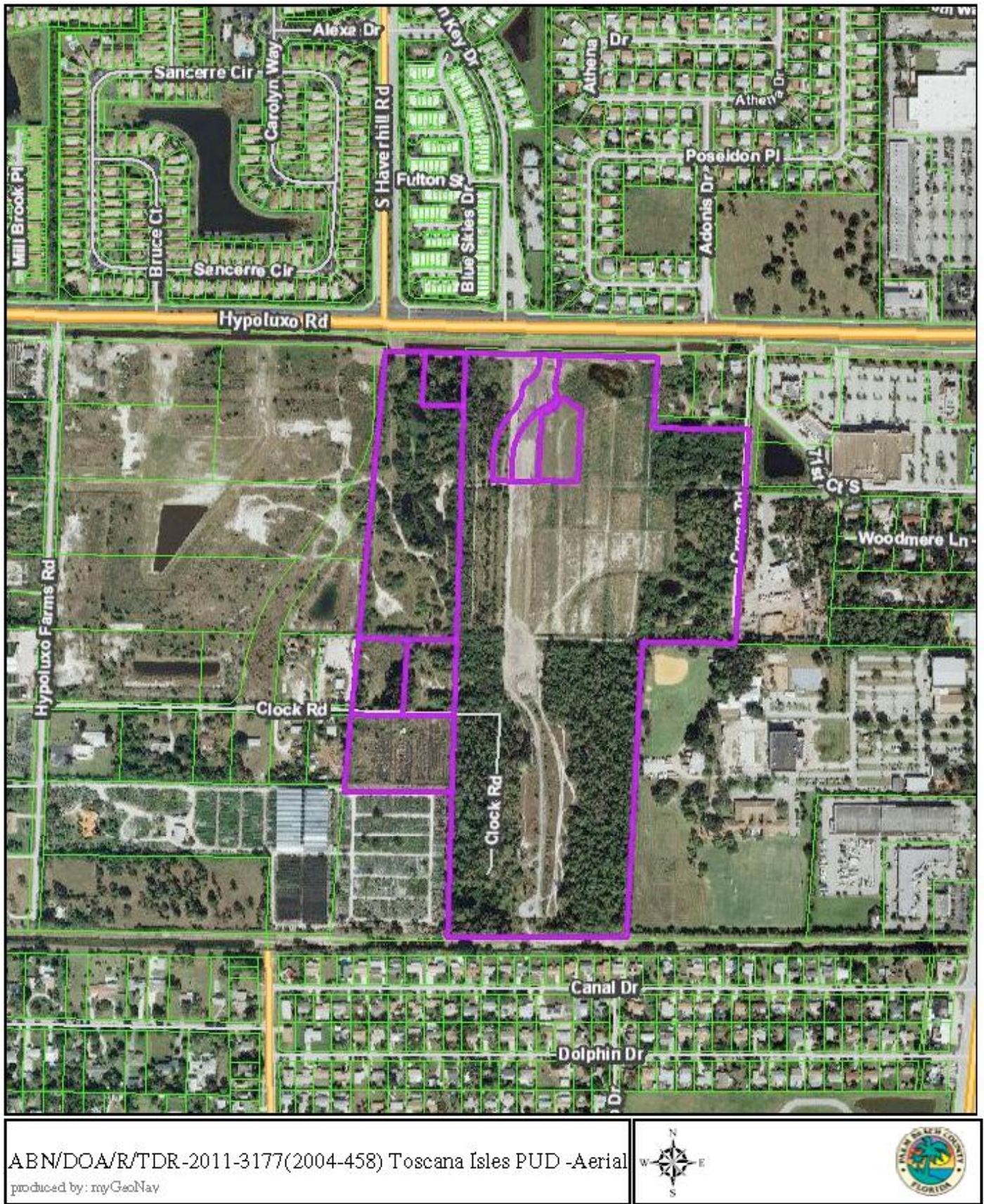


Figure 3 Aerial















**STAFF REVIEW AND ANALYSIS**

**PLANNING DIVISION COMMENTS:**

FUTURE LAND USE (FLU) PLAN DESIGNATION: Low Residential 3 units per acre (LR-3)

TIER: The subject site is in the Urban/Suburban Tier.

FUTURE ANNEXATION AREAS: The subject site is located within the future annexation area of the City of Boynton Beach.

INTERGOVERNMENTAL COORDINATION: The subject property is not located within one mile of any municipality.

CONSISTENCY WITH FUTURE LAND USE (FLU) PLAN DESIGNATION: The Planning Division has reviewed the request for a Development Order Amendment to utilize the current Workforce Housing Program, add 45 TDR's to increase the density from 414 to 459 total units, abandon the previous TDR approvals, abandon recorded WHP program Covenants and become a receiving site for the off-site workforce housing obligation belonging to the Villaggio Isles PUD.

No changes have been proposed for the previously approved Requested use for the Private Civic Tract located in the north-western corner of the subject site for a 10,000 square foot Day Care facility with a maximum of 200 students.

The total square footage of 10,000 square feet is consistent with the maximum FAR calculations for Low Residential land use. The FAR of .35 allowed for a use with an LR-3 FLU designation (1.42 acres X 43,560 X .35 = 21,649.32 square feet maximum). The previously approved Daycare equates an FAR of approximately 0.06 (10,000 / 1.42ac = 0.16).

This report is broken out into two parts; the Workforce Housing Program (WHP) and the Transfer of Development Rights (TDR) program. The WHP portion will discuss the request to utilize the latest workforce code requirements and for this site to be a receiving are for another projects WHP obligation. The TDR portion will discuss the request to utilize the latest TDR program requirements for all of the previously approved TDR's including the 45 new ones being requested.

WORKFORCE HOUSING PROGRAM: The applicant is requesting to utilize current Workforce Housing Program (WHP) requirements, add units and become a receiving area for Villaggio Isles PUD's (Control #2004-456; Application #2012-116) WHP obligation. A comparison of the previous program requirements to the current requirements are as follows:

	<b>Previous</b>	<b>Current</b>
<b>For-sale units:</b>	<b>25 year recurring</b>	<b>15 years recurring</b>
<b>Rental units:</b>	<b>25 years recurring</b>	<b>30 years non-recurring</b>
<b>All WHP units:</b>	<b>60-150% AMI</b>	<b>60-140% AMI</b>
<b>Release of obligation:</b>	<b>not available</b>	<b>available with restrictions</b>

The Workforce Housing Program updates above were adopted in October 2009. The updated program requirements will be applied to the remaining density allowed by land use, the WHP 30% Bonus density and all 185 TDR's. Shown below is the applicant's request for 459 total units as proposed, including prior approvals.

Units vested: of the 414 previously approved units 161 predate the workforce housing program and are therefore vested. The applicant is seeking to have the remaining 50 Standard/PUD density units, 63 Workforce 30% Bonus Density units and 185 TDR's Units be reassigned from previous Workforce Housing program requirements to the current requirements.

The total available units and subsequent WHP obligation were calculated as follows:

161 Units Vested    0.00 WHP obligation  
 50 Remaining PUD units (50 x 16% = 8)    8.00 WHP obligation



63 Bonus units (30% bonus, 63 x 34% = 21.42) 21.42 WHP obligation  
 185 TDR units (185 x 35% = 64.75) 64.75 WHP obligation  
 459 total units 94.17 WHP obligation

TRANSFERRING WHP OBLIGATIONS OFFSITE: The applicant has a concurrent application in the Development Review Process that is requesting to have Toscana Isles be a receiving area for the Villaggio Isles PUD (Control #2004-456; Application #2012-116). Villaggio Isles has a required WHP obligation of 64 units. This is permissible per ULDC Article 5.G.1.G which states,

“WHP units may be located off-site using the options listed below and in accordance with the provisions of Table 5.G.1.B, Workforce Housing Program; however, under no circumstances shall any site be permitted to develop at a density greater than that permitted by the Plan. Prior to issuance of a building permit, or final DRO approval if applicable, all contracts or related agreements for any off-site option evidencing site control and necessary approvals shall be approved by the County Administrator, or designee. Prior to final DRO approval, the applicant shall identify the total number of WHP units proposed for development off-site including the number in each applicable WHP income category.”

The total WHP Obligations are as follows:  
 Total WHP obligation for Toscana Isles 94 required WHP obligation  
 Total WHP obligation moved offsite from Villaggio PUD +64 WHP obligation  
 158 WHP unit total

The ULDC doesn't require final confirmation of the utilization of the Offsite Option until Final DRO. Because of this timing factor, the Conditions of Approval necessary for tracking the obligations for both projects will be applied as DRO Conditions of Approval.

These units are tracked per the ULDC Article 5.g.1.g.1. as follows:  
 “Option 1 - Off-site Construction: Building permits shall be issued for a minimum of 25-percent of the required WHP units to be constructed off-site prior to the issuance of no more than 25-percent of the building permits in the subject development. All off-site WHP units must receive CO prior to issuance of no more than 85-percent of the CO's in the subject development.”

Reciprocal conditions and notes on each of the projects site plans have been crafted in accordance to the ULDC provisions to ensure construction of the units obligated to be designated as Workforce Housing. In order to utilize current program requirements it will be necessary to abandon all previously recorded WHP Restrictive Covenants. New Covenants will be recorded prior to final DRO approval.

Housing Element Policy 1.5-g.4. states, “Workforce units built onsite can be clustered or integrated within the development.” The applicant will be clustering 158 workforce units within the multifamily section of the development.

The applicant has not determined if the units will be for sale or rental.

Sale Prices (2011) PBC Median Family Income \$63,300 (per HUD, June 2011) The sales prices are based on US HUD annual median income figure.

WHP Income Category 2011 Sales Prices

Category	Percentage Median Family Income	Sale Price
Low	(60-80%)	\$132,930
Moderate-1	(>80-100%)	\$170,910
Moderate-2	(>100-120%)	\$208,890
Middle	(>120-140%)	\$246,870

Rental Prices (2011) Florida Housing Finance Corporation Family Rental Programs NOTE: The rental prices at 100% are determined by Planning Division staff.

Income %	1 BR	2 BR	3 BR	4 BR
60%	\$ 832	\$ 999	\$1,155	\$1,288
80%	\$1,110	\$1,332	\$1,540	\$1,718
100%	\$1,388	\$1,665	\$1,925	\$2,148
120%	\$1,665	\$1,998	\$2,310	\$2,577
140%	\$1,942	\$2,331	\$2,695	\$3,006

Any Utility Allowances are applied against gross maximum rent.

**TRANSFER OF DEVELOPMENT RIGHTS PROGRAM:** The Transfer of Development Right (TDR) program is available as a means to add additional dwelling units. This parcel is eligible for up to 3du/ac additional density.

211 TDR units maximum can be requested ( $70.62 \times 3 = 211.86$ )

However, the applicant is not seeking to utilize all available TDR's. Of the 211 available TDR's 140 have been approved through previous resolutions. The applicant is currently requesting to utilize 45 of the remaining 71 TDR's available for this site.

The applicant is seeking to abandon the previous TDR resolutions in order to encumber those units under the current Workforce Housing Program requirements. Under the previous TDR resolutions the applicant was obligated to pay \$350,126.00 dollars for those TDR's. The previous resolutions approving the purchase of 140 TDR's are as follows:

R-2005-1048: 14 TDR's at \$25,000 dollars per TDR in escrow (\$350,000).

R-2010-310: 126 TDR's purchased for \$1 per TDR. (\$126.00)

FLUE Policy 2.4-a.5 states that the TDR program shall, "require 35% of TDR units per project be provided as Workforce Housing Program units and each workforce housing TDR at a reduced cost to the developer";

Of the 185 TDR's 65 are required to be constructed as Workforce Housing ( $185 \times 35\%=65$ ). Additionally, the applicant is including Villaggio's off-site obligation as TDR WHP units for a total of 129 of the TDR's being obligated as Workforce Housing with the remaining 56 being market rate. All of the Workforce housing obligated units will be located in the multifamily portion of the development.

**TDR PRICING:** Under the current request the applicant will be required to pay a total of \$472,122 for the 185 TDR's. The \$472,122 includes the additional 45 TDRs at the WHP pricing level.

The applicant is requesting that of the 185 TDR's to be purchased, 129 will be obligated to as Workforce Housing for a total cost of \$48,762 and the remaining 56 TDR's will be market rate for a cost of \$423,360. The total cost for the 185 TDR's is as follows:

2011 TDR Pricing: Market rate = \$7,560; WHP rate = \$378

129 TDR's obligated as WHP ( $129 \times \$378 = \$48,762$ )

56 TDR's at Market Rate ( $56 \times \$7,560 = \$423,360$ )

Total cost of TDR's =  $\$48,762 + \$423,360 = \$472,122$

The applicant will be required to pay for the TDR's prior to final site plan.

**SPECIAL OVERLAY DISTRICT/NEIGHBORHOOD PLAN/PLANNING STUDY AREA:** The site is within the West Boynton Area Community Plan (WBACP) boundaries. The request was reviewed in relation to the WBACP's recommendations and was found consistent.

The following specific recommendations may apply to the request:

Rec. 23 states, "Densities should gradually decrease as one moves westward." The site is located east of the Turnpike between Haverhill and Military Trail in the eastern portion of the Urban Suburban Tier. Therefore, the additional units are not increasing density in the western portion of the neighborhood planning area and the request is consistent with this recommendation.

Rec. 37 states, "Improve pedestrian linkages between residential and non-residential uses." The site plan shows several pedestrian side-walks connecting the site to Hypoluxo Road and the adjacent non-residential uses. Therefore the request is consistent with this recommendation.

The applicant has had initial meetings with representatives of COBWRA and have additional meeting scheduled in January. Mr. Lassiter, the President of COBWRA conveyed that the group has concerns relating to the increase in density and dedication of WHP units for the subject request.

FINDINGS: The request is consistent with the LR-3 land use designation and is not inconsistent with identified recommendations of the West Boynton Area Community Plan.

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### **ENGINEERING COMMENTS:**

#### **REQUIRED ENGINEERING RELATED PERMITS**

The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department, Permit Section, prior to the application of a Building Permit.

The property owner shall obtain a Turnout Permit from the Palm Beach County Engineering Department, Permit Section, for access onto Hypoluxo Road and future access onto Haverhill Road.

#### **RIGHT OF WAY CONVEYANCE**

Pursuant to Policy 1.4-d in the Transportation Element of the Comprehensive Plan, the Property Owner shall convey additional right-of-way along the project frontage on Hypoluxo Road and on Haverhill Road to allow for future planned and/or programmed improvements.

#### **TRAFFIC IMPACTS**

The Property Owner has estimated the build-out of the project to be December 31, 2018. Total traffic expected from the project is 4,250 daily and 413 PM peak hour trips. Additional traffic is subject to review for compliance with the Traffic Performance Standard. There are no improvements to the roadway system required for compliance with the Traffic Performance Standards.

#### **ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK westbound)**

Segment: Hypoluxo Road from Haverhill Road to Military Trail

Existing count: 1653

Background growth: 375

Project Trips: 104

Total Traffic: 2132

Present laneage: 6LD

LOS "D" capacity: 2680

Projected level of service: C

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### **PALM BEACH COUNTY HEALTH DEPARTMENT:**

No Staff Review Analysis

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### **ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:**

VEGETATION PROTECTION: The majority of the property has been under agricultural production. Native vegetation shall be incorporated into the site design or mitigated.

WELLFIELD PROTECTION ZONE: The property is not located with a Wellfield Protection Zone.

IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93-3. Any non stormwater discharge or the maintenance or use of a connection that

results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93-15.

ENVIRONMENTAL IMPACTS: There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

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**OTHER:**

FIRE PROTECTION: The Palm Beach County Department of Fire Rescue will provide fire protection.

SCHOOL IMPACTS: In accordance with adopted school concurrency, a Concurrency Determination for 459 units (253 single-family units, 206 apartment units) had been approved on March 13, 2012 (Concurrency Case #12030701C). The subject property is located within Concurrency Service Area 17 (SAC 237A).

On August 5, 2009, the subject property was approved with school concurrency determination for 414 units (254-single family, 160-multi-family) under case# 09072901C. This approval remains valid for the life of the Development Orders of Resolution R-2009-0308.

Please be advised that the requested School Concurrency Determination in this application is approved for the following:

1. The increase in the number of units (45) from the last approval.
2. The change in the unit type (multi-family to apartment) for 160 units.
3. The new total number of units approved for the subject property as combined is 459 (253-single family and 206 apartments).

This project is estimated to generate approximately one hundred sixteen (116) public school students. The schools currently serving this project area are Hidden Oaks Elementary School, Christa McAuliffe Middle School, and Park Vista Community High School.

The revised Subdivision Plan (dated 3/15/12) shows a 10' x 20' school bus shelter location. A bus shelter condition of approval has been applied to this petition request.

PARKS AND RECREATION: Based on the proposed 459 dwelling units 2.66 acres of on site recreation is required. The plan submitted indicates there will be 2.79 acres of recreation provided, therefore, the Parks and Recreation Department standards have been addressed.

CONCURRENCY: Concurrency has been approved for 459 dwelling units (253 ZLL, 206 MF) and a 200 student Daycare, General (10,000 sf).

WATER/SEWER PROVIDER: City of Boynton Beach.

FINDING: The proposed Zoning Map Amendment complies with Article 2.F of the ULDC, Concurrency (Adequate Public Facility Standards).

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**FINDINGS:**

**Conditional Uses, Requested Uses and Development Order Amendments:**

When considering a development order application for a conditional or requested use, or a development order amendment, the BCC and ZC shall consider standards 1 – 9 indicated below. A conditional or requested use or development order amendment which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved. Staff has reviewed the request for compliance with the standards that are expressly established by Article 2.B.-2.B and provides the following assessment:

1. **Consistency with the Plan** – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

The proposed PUD Zoning District is compatible with the existing Palm Beach County FLU designation of LR-3. This amendment proposes to increase the number of dwelling units from 414 to 459 residential units with the additional 45 units being purchased through the TDR Density Program. The gross density for the site will be 6.5 du/a. Pursuant to ULDC Article 5.G.1.B, the project is subject to the Mandatory Inclusionary Zoning Ordinance. This proposal includes 158 of the total units to be deed restricted as WHP units. The requests are consistent with the purposes, goals and objectives and policies of the Plan.

2. **Consistency with the Code** - *The proposed use or amendment complies with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics. The proposed use also complies with all applicable portions of Article 4.B, SUPPLEMENTARY USE STANDARDS.*

The proposed development is consistent with the ULDC code requirements for development in the PUD zoning district. The proposed DOA to abandon Resolutions R-2005-1048 and R-2010-0310 which allowed for the TDRs under prior ordinances and Resolution R-2005-1049 which allowed for waivers to the number of cul-de-sacs and dead-ends; and, to modify and delete Conditions of Approval (DRO, Engineering, Planned Development and Site Design) in order to implement the proposed changes to the Master and Subdivision Plans is consistent with all the objectives and standards of the PUD Zoning District, the criteria for the granting DOA, and the supplementary use standards in Article 4 and all other articles of the ULDC. As such, the proposed DOA is consistent with the Code

3. **Compatibility with Surrounding Uses** – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

The proposed revisions to the Master plan will not negatively affect the compatibility of the site with its surrounding uses. As indicated by the description of the surrounding uses above, the more intense commercial and higher density residential uses are on the east and north sides of the property and the less intensive residential uses are to the west and south. The proposed development facilitates the good planning practice of having a transition of density and intensity of uses by locating the day care center and multi-family pod with higher density along the roadway frontage and adjacent to the commercial areas, The proposed development provides a transition of use from the existing and planned commercial development to the existing and planned residential development to the west and south. Additionally, the proposed requests for TDR's are consistent with the uses and character of the surrounding lands subject to the Conditions of Approval as contained in Exhibits C-1 to C-2.

4. **Design Minimizes Adverse Impact** – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

The design of the PUD proposes the multi-family pod and day care center to be located closer to Hypoluxo Road and adjacent to commercial developments. This minimizes any perceived adverse impact on the less intensive uses surrounding the property. In addition, landscape buffers are provided around the entire perimeter of the site and as indicated on the proposed Preliminary Master and Subdivision Plans, where possible, the buffers will incorporate existing trees.

5. **Design Minimizes Environmental Impact** – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

The use does not adversely affect the natural environment since the site will preserve the existing trees located within the perimeter buffers and additional landscaping. There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

6. **Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The proposed development is consistent with the residential development patterns in the area and would not change the previously approved development pattern in the vicinity as the site was previously approved for a residential environment and was found to be compatible with the surrounding land areas. The multi-family site is located at the northeast end of the site adjacent to a proposed medical office facility, an existing shopping center, and across from a multi-family project to the north. The remainder of the site consists of the ZLL residential use which is compatible with the approved PUD to the west. The proposed density is consistent with the surrounding area as determined by the Planning Division. The proposal is anticipated to have no adverse impact on the local development patterns, timing or trends.

7. **Consistency with Neighborhood Plans** – *The proposed development or amendment is consistent with applicable neighborhood plans in accordance with BCC policy.*

The subject site is located within the boundaries of the West Boynton Area Community Plan (WBACP). Staff has reviewed the proposed request for compliance with recommendations of the WBACP and has found no inconsistencies as it relates to the request. At time of publication, staff had received no response from WBACP.

8. **Adequate Public Facilities** – *The extent to which the proposed use complies with Art. 2. F, Concurrency.*

The subject site is approved for 253 ZLL residential units and 206 MF units and a 200 student Daycare, General (10,000 sf). The proposal complies with Article 2.F of the ULDC, Concurrency (Adequate Public Facility Standards).

9. **Changed Conditions or Circumstances** – *There are demonstrated changed conditions or circumstances that necessitate a modification.*

The applicant indicates that the changed circumstances that support this Development Order Amendment include a change in circumstance in that the County revised the WFH Program ordinance subsequent to the previous approval of the project. The applicant is seeking to take advantage of the revised WHP including a shorter recurring period, a lowering of the maximum Percentage Median Family Income and the availability of a release of obligation with restrictions.

Staff has determined that any of the potential impact and incompatibility issues will be adequately addressed subject to the recommended Conditions of Approval as indicated in Exhibit C.

## CONDITIONS OF APPROVAL

### EXHIBIT C-1

#### Development Order Amendment

#### ALL PETITIONS

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:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Master Plan is dated March 15, 2012. 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)

#### 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)

#### 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)

## 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 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 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)

## 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

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) (Previous Condition Planning 1 of R-2010-308, Control No. 2004-458)

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) (Previous Condition Planning 2 of R-2010-308, Control No. 2004-458)

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.]

## 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)

## TRANSFER OF DEVELOPMENT RIGHTS

1. 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' and 'TDR Deed' shall be submitted for final review and execution. (DRO: ZONING – Zoning)

2. 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)

3. The Transfer of Development Rights Contract shall be limited to a maximum of One Hundred and Twenty Nine (129) TDR units at a selling price of \$378 per unit and Fifty Six (56) TDR units selling at a price of \$7,560 per unit for a total of \$472,122.00. (DRO/BLDG PERMIT:COUNTY ATTORNEY/ZONING-Zoning)

4. At time of submittal for the Subdivision Approval or the first Building Permit, whichever shall occur first, the property owner shall pay one hundred (100) percent of the Transfer of Development Right Funds to Palm Beach County. (DRO/BLDG PERMIT: MONITORING - Zoning)

5. 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. (BLDG PERMIT: MONITORING - Zoning)

## TRANSFER OF DEVELOPMENT RIGHTS-COMPLIANCE (TDR)

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)

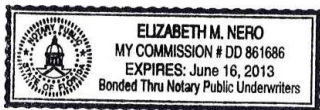


7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

Charles Scardina, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 27 day of February, 2012, by Charles Scardina, [  ] who is personally known to me or [  ] who has produced \_\_\_\_\_ as identification and who did take an oath.



Elizabeth M Nero  
Notary Public

Elizabeth M Nero  
(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: 6-16-2013

**EXHIBIT "A"****PROPERTY**

All of the Plat of ISOLA BELLA ISLES-PHASE I, according to the Plat thereof as recorded in Plat Book 111, Page 119, Public Records of Palm Beach County, Florida.

TOGETHER WITH:

**Parcel 1:**

A parcel of land lying in the Northwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  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  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  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  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  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 Final Judgment Nos. 18061-B and 63L1226, Palm Beach County, Florida;

LESS therefrom the North 80 feet measured at right angles thereto

TOGETHER WITH:

**Parcel 2:**

That part of Tract 14, in the Northwest  $\frac{1}{4}$  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  $86^{\circ} 18' 30''$  measured from West to South, a distance of 395 feet to the Point of Beginning.

TOGETHER WITH:

**Parcel 3:**

That part of Tract 14, 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, being a part of the unrecorded plat of Hypoluxo Farms, a Subdivision of the Northeast  $\frac{1}{4}$  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 centerline of Military Trail; thence continue Southerly along the West line of Section 12, a distance of 339.26 feet; thence Easterly an angle of  $86^{\circ} 11' 30''$  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  $93^{\circ} 51' 00''$ , measured from West to North, a distance of 338.35 feet; thence Westerly a distance of 662.12 feet to the Point of Beginning.

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.

**EXHIBIT "B"**

**DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

<b>Name</b>	<b>Address</b>	
Charles Scardina	7593 Boynton Beach Blvd., Boynton Beach, FL 33437	49.5%
Ramsey Akel	7593 Boynton Beach Blvd., Boynton Beach, FL 33437	49.5%

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