

IN THE COUNTY COUNCIL OF THE
COUNTY OF VOLUSIA

IN RE: Application of

TIGER BAY ESTATES RPUD

RESOLUTION # 96-117

ORDER AND RESOLUTION

GRANTING A REQUEST FOR CHANGE OF ZONING TO
RESIDENTIAL PLANNED UNIT DEVELOPMENT

The Application of Louis P. Samuels, Hummingbird Property Corporation and United Jewish Endowment Fund, (hereinafter "Applicants") for rezoning was heard by and before the Volusia County Council, Volusia County, Florida, on June 20, 1996. Based upon the verified Application and other supporting documents, map, charts, overlays and other instruments; the advice, report and recommendation of the Growth Management Services Center, Legal Department and other departments and agencies of Volusia County; the testimony adduced and evidence received at the public hearing on this Application by the Planning and Land Development Regulation Commission on May 14, 1996; and otherwise being fully advised, the Volusia County Council does hereby find and determine as follows:

GENERAL FINDINGS

(a) That the Application of Louis P. Samuels, Hummingbird Property Corporation and United Jewish Appeal Endowment Fund was duly and properly filed herein on February 23, 1996, as required by law.

(b) That all fees and costs which are by law or regulation or ordinance required to be borne and paid by the Applicant have been paid.

(c) That the Applicant is the owner of approximately 250 acres of land which is situated in Volusia County. This parcel of land is described more particularly in the survey and legal description, a true copy of which is attached hereto as Exhibit "A".

(d) That the Applicant has held a pre-application meeting as required by Ordinance No. 80-8, as amended, Section 813.05.

(e) That the Applicant has complied with the "Due Public Notice" requirements of the Volusia County Zoning Ordinance No. 80-8, as amended.

(f) That the owners of the property, Louis P. Samuels, Hummingbird Property Corporation and United Jewish Endowment Fund, agree with the provisions of the Development Agreement.

FINDINGS REGARDING REZONING

(a) The Applicant has applied for a change of zoning from the present zoning classification(s) of the parcel described in Exhibit "A" from R-7, R-4 and RC to Residential Planned Unit Development (RPUD).

(b) That the said rezoning to RPUD is consistent with both the Volusia County Comprehensive Plan Ordinance No. 90-10 as amended, and the intent and purpose of Volusia County Zoning Ordinance No. 80-8, as amended, and does promote the public health, safety, morals, general welfare and orderly growth of the area affected by the rezoning request.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY ADMINISTRATION CENTER, COUNTY COUNCIL MEETING ROOM, DELAND, FLORIDA, THIS ____ DAY OF _____, A.D., 1996, AS FOLLOWS:

(1) That the Application of Louis P. Samuels, Hummingbird Property Corporation and United Jewish Endowment Fund for the rezoning of the subject parcel is hereby granted.

(2) That the zoning classification of the subject parcel described in Exhibit "A" attached hereto is hereby amended from R-7, R-4 and RC to RPUD as described in Article VII of the Zoning Ordinance of Volusia County, Florida, No. 80-8, as amended.

(3) That the Official Zoning Map of Volusia County is hereby amended to show the rezoning of said parcel to RPUD.

(4) That Volusia County Zoning Ordinance No. 80-8, as amended, is consistent with the provisions of the "Development Agreement" as hereinafter set forth in this Order and Resolution and with respect to any conflict between Ordinance No. 80-8, as amended, and the "Development Agreement", the provisions of the "Development Agreement" shall govern. Ordinance No. 80-8, as amended, shall govern with respect to any matter not covered by the "Development Agreement." The Volusia County Zoning Enforcement Official will ensure overall compliance with this Order and Resolution.

(5) Unless otherwise provided for herein, Article VIII, Supplementary Regulations of Volusia County Zoning Ordinance No. 80-8, as amended, shall apply to the RPUD in the same manner as the RR classification.

(6) Development of the requested RPUD shall comply with the Volusia County Land Development Code, Ordinance No. 88-3, as amended, and all other applicable Volusia County Land Development regulations.

DEVELOPMENT AGREEMENT

1. Development Concept: The parcel shall be developed as a RPUD substantially in accordance with the Master Development Plan of the development which provides for an exempt subdivision with lots of 10 acres or greater per unit or as presently zoned.

a. The Master Development Plan consists of this "Development Agreement" with lot layout. The Development Agreement with lot layout is hereby approved by the Volusia County Council as part of the Master Development Plan and is incorporated in this Order and Resolution by reference as Exhibit "B".

b. The Master Development Plan shall be filed and retained for public inspection in the office of the County Planning and Zoning Department. All Master Development Plan amendments other than those deemed by the Zoning Enforcement Official to be minor amendments as set out by Section 813.06 of Ordinance No. 80-8, as amended, shall require the review and recommendation of the Planning and Land Development Regulation Commission and of the Volusia County Council in the same manner as for the original rezoning.

c. The Master Development Plan shall be recorded in the Public Records of Volusia County, Florida, upon approval and following execution of the document by the County Council. The Applicant shall pay all recording costs.

d. Subdivision Approval: This subdivision will be exempt from the County

Land Development Code. The final lot and access easement layout shall be submitted for review for determination of consistency with the terms of this Development Agreement by the Growth Management and Environmental Services Center office.

e. The Applicant or its successors shall maintain unified ownership of the subject parcel until after issuance of the Final Development Order Plat(s) or Exemptions for areas to be subdivided or the Final Site Plan Development Order.

f. Nothing herein shall be taken as an abridgement to the requirements of any County Ordinance other than Volusia County Zoning Ordinance No. 80-8, as amended. Thus, timing and review procedures indicated herein may be changed in order to comply with the Volusia County Land Development Code Ordinance No. 88-3, as amended. Further, nothing in the Development Agreement is intended to circumvent the requirements of Ordinance No. 88-3, as amended, and other County Ordinances, resolutions or regulations.

2. Phases of Development: Two phases of development.

- a. Phase I: 103.66 acres \pm
- b. Phase II: 146.44 acres \pm

It is estimated that improvements provided for Phase II shall be completed in approximately 24 months from the date of approval. All such improvements must be complete within 6 years from approval.

3. Land Use: There will be two land uses established within the PUD: Residential/Personal Agriculture Area and the Environmental Protection Area. The development of the parcel shall be consistent with the limits for use as prescribed for each land use area within the proposed RPUD. The approximate location and size of said land use areas are shown on the Lot Layout, Exhibit "B". The Lot Layout, however, shall be amended prior to development of Phase II in order to insure sufficient buildable area out of the wetlands and wetlands buffers designation for lots 1 & 2 and to reconfigure Lots 10 & 11 if necessary to provide contiguous upland areas that will not encourage the alteration of wetlands and wetland buffers. The roadway for Phase II will be realigned to minimize alterations to jurisdictional wetland areas and wetland buffers. The Growth Management Department shall review revised lot layout to assist in compliance with these goals and shall review the Environmental Systems Corridor ("ESC") boundary locations as lineated on lot layout. A copy of the final lot layout shall be provided to the Growth Management Department at 1"=400' scale.

4. Land Use Description:

A. Residential/Personal Agriculture Area: The Residential/Personal Agriculture Area will be defined as the areas of the parcel that were previously zoned R-4 and R-7 and are designated on the Future Land Use Map ("FLUM") as Low Impact Urban and Urban Low Intensity.

Permitted Uses:

I. Single family residential dwelling with mobile homes specifically prohibited;

II. Raising of crops and keeping of animals for personal use (not intended for resale), accessory to a single-family dwelling;

III. Home Occupations, class A;

IV. Farm Ponds 3/4 of an acre in size or less as illustrated in Section 817(o) of the Zoning Ordinance.

Permitted Special Exceptions:

I. Antennas exceeding 70 feet in height;

II. Excavations only for stormwater retention ponds for which a permit is required.

B. Environmental Protection Area ("EPA"): The Environmental Protection Area will be defined as the area of the Property that was previously zoned Resource Corridor ("RC") and is designated on the FLUM as ESC. The uses allowed in the Environmental Protection Area shall be all uses permitted in the RC zoning category except that individual lot owners are restricted to land clearance of a maximum of 10% of the Environmental Protection Area as improved pasture.

C. Development Standards:

- a. Minimum lot area: 10 acres
- b. Minimum lot width and /or depth: 100 feet wide
- c. Minimum yard size (building):
 - (1) Front yard: 20 feet (measured from the edge of easement or right-of-way)
 - (2) Rear yard: 20 feet
 - (3) Side yard abutting any lot: 10 feet

(4) Side yard abutting any street: 10 feet (measured from the edge of easement or right-of-way)

d. Minimum floor area: 1,000 square feet

e. Maximum building height: 35 feet

f. Lot coverage not to exceed 30% of land area located within the Residential/Personal agriculture area.

5. Environmental Considerations: This development agreement significantly reduces permitted density on the subject parcel. In addition, although 20% of a parcel designated RC are normally permitted to be cleared, the applicant has restricted the area within the Environmental Protection Area to a maximum of 10% of the area as improved pasture. Therefore, although a section of the subject property has been harvested under a silvicultural operation, the County specifically waives any tree replacement requirements in consideration for the placement of the Environmental Protection Area ("EPA") within a natural vegetation retention area (consistent with Section 1006.04 of Article X, Volusia County Land Development Code 88-3 as amended).

The EPA shall be delineated at scale on the lot layout and a copy of said lot layout with the appropriate restrictions shall be provided to any purchaser of a lot within the RPUD. A copy of the lot layout with the EPA shown at scale shall be attached to each lot deed. The area presently depicted as "wetlands" on the lot layout shall be removed from the recorded Development Agreement.

The applicant agrees to that all access easements, to the greatest extent possible, shall be placed out of wetlands and required wetland buffers, and to obtain all necessary St. Johns River Water Management District Environmental Resource Permits.

The entire RPUD project shall be managed pursuant to the Natural Resources Management Area criteria.

6. Sewage: Individual septic tanks per the Volusia County Land Development Code Section 10D-6, Florida Administrative Code.

7. Potable Water: Individual wells consistent with Section 10D-6, Florida Administrative Code and the Volusia County Land Development Code. However, applicant reserves the option of extending the trunk lines for and hooking into the municipal water system of the City of Daytona Beach.

8. Stormwater Drainage: Stormwater drainage issues shall be addressed by the individual lot owners and consistent with the Volusia County Land Development Code and the St. Johns River Water Management District.

9. Roadways: The section of the Roosevelt Boulevard county right-of-way within the RPUD is unmaintained and unpaved by the county. The County has no plans for paving or further improvements. A homeowners association will be created with the sole duty to maintain Roosevelt Boulevard and all private roads serving the subdivision.

Access to General Doolittle Road shall be allowed provided such access for lots 1 and 2 (Phase I) impacts either non-jurisdictional acreage or has been permitted by any and all local state and federal agencies. Every lot shall have legal access to the nearest County Road and the

lot layout shall delineate such legal access. Developer shall obtain all necessary use permits for a connection of the Phase II access roadway to the County right of way and for the maintenance of the unmaintained section of the county right of way known as Roosevelt Boulevard.

The following language shall be placed on each deed transfer an interest in land within the RPUD "No governmental agency, including the government of Volusia County, shall ever be responsible for the maintenance, upkeep or improvements of any private drives, roads, streets, easements or right of ways providing ingress and egress to the property herein conveyed."

The undeveloped private roadway for Phase II will be realigned to provide minimal alterations to jurisdictional wetland areas and wetland buffers.

10. Building or Property Owners Association: The project shall have common easements interests and requirements for the maintenance of the roadways therein, and therefore, it is the intent of the Applicant to create a property owner's association for the purpose of maintaining the roadways within the RPUD and the unmaintained section of the county right of way known as Roosevelt Boulevard.


11. Binding Effect of Plans; Recording: The provisions of the foregoing "Development Agreement", including any and all supplementary orders and resolutions, and the Preliminary Plan shall bind and inure to the benefit of the Applicant or its successor in title or interest. The RPUD zoning, provisions of the "Development Agreement" and all approved plans shall run with the land and shall be administered in a manner consistent with Article IX of the

Volusia County Zoning Ordinance No. 80-8, as amended. This Order and Resolution and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

12. Notice to Adjoining Owners: In the event Applicant or the successor thereto requests an amendment to this development agreement which requires public hearing, the Applicant or the successor thereto shall provide actual notice to adjoining property owners pursuant to law, and further provide actual timely notice to the President of the Daytona Highridge Homeowners Association of the all public hearings regarding said rezoning request.

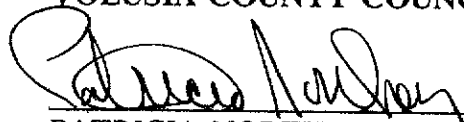
DONE AND ORDERED by the County Council of Volusia County, Florida, this 20th day of June, 1996.

ATTEST



LARRY ARRINGTON
County Manager

VOLUSIA COUNTY COUNCIL




PATRICIA NORTHEY, Chairman



LOUIS P. SAMUELS

HUMMINGBIRD PROPERTY CORPORATION



ARNOLD PERRY, President

UNITED JEWISH ENDOWMENT FUND



DAVID H. BELKIN, Director

LEGAL DESCRIPTION

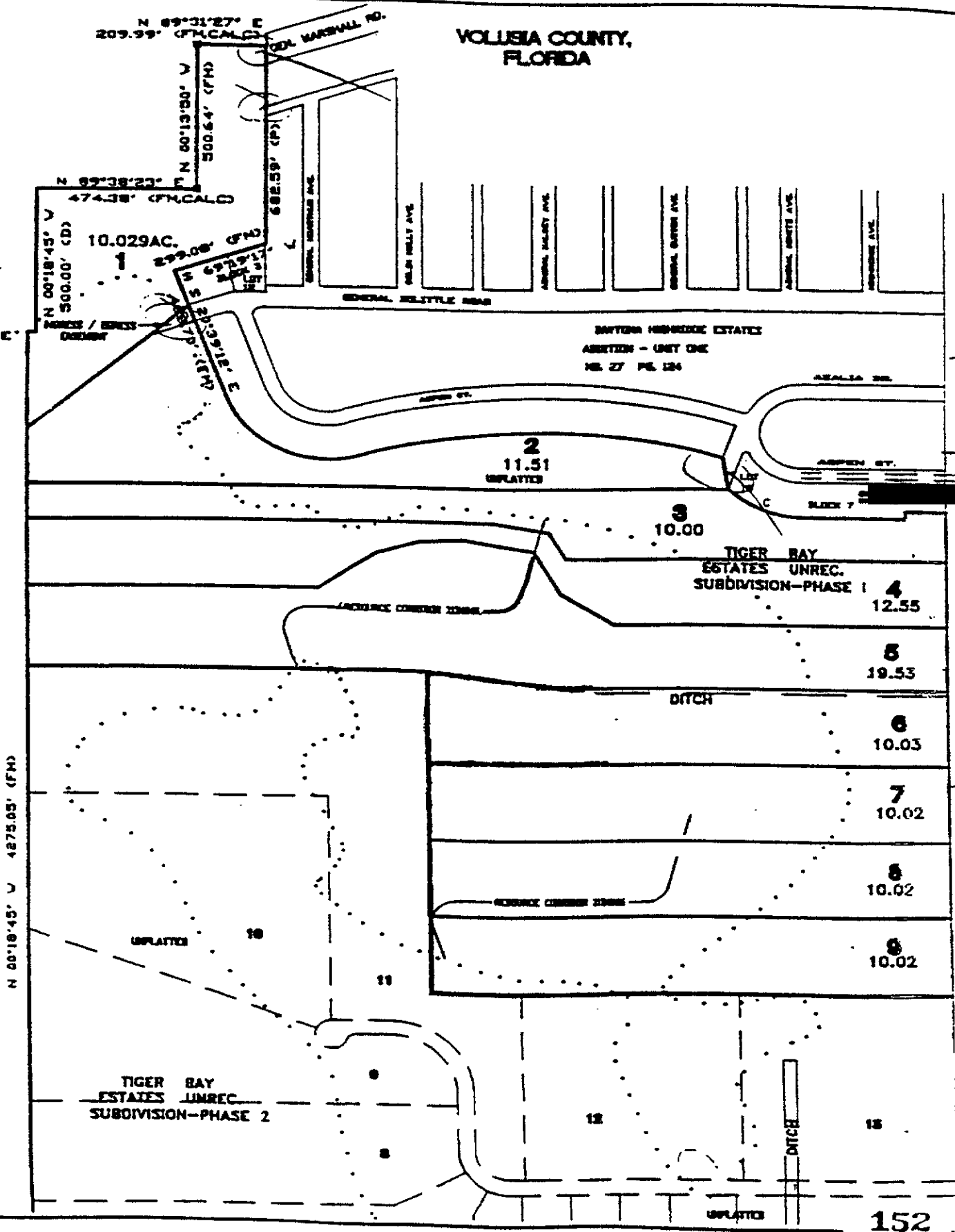
That portion of section 7, township 16 south, range 32 east, Volusia County, Florida, more particularly described as follows:

From a reference point, said point being the northwest section corner of section 7 aforesaid, run thence north 89 degrees 28 minutes 58 seconds east, along the northerly line of said section 7, a distance of 500.00 feet to a point, said point also being the point of beginning; thence run north 89 degrees 31 minutes 27 seconds east, along said northerly line a distance of 209.99 feet, intersecting the westerly boundary line of Daytona Highridge Estates replat, as recorded in Map Book 23, Page 157, Public Records of Volusia County, Florida; thence south 00 degrees 40 minutes 23 seconds east, along said westerly boundary, a distance of 682.59 feet to a point, said point being the northeast corner of Lot 12, Block 3, Daytona Highridge Estates, addition Unit #1 as recorded in Map Book 27, Page 124, Public Records of Volusia County, Florida; thence south 69 degrees 19 minutes 17 seconds west, along the northwesterly boundary of said Daytona Highridge Estates, addition Unit #1, a distance of 299.08 feet to a point, said point being the northwest corner of Lot 10, Block 3, of said Daytona Highridge Estates, addition Unit #1; thence south 20 degrees 39 minutes 12 seconds east, along the westerly boundary of said Daytona Highridge Estates, addition Unit #1, 468.70 feet to the beginning of a curve, concave northerly, having a radius of 325.00 feet and a central angle of 88 degrees 52 minutes 24 seconds; thence easterly, along the arc of said curve to the left, a distance of 504.12 feet, said arc subtended by a chord which bears south 65 degrees 05 minutes 16 seconds east, a distance of 455.08 feet to the end of said curve and to the beginning of another curve, said point not being a point of reverse curvature; thence continuing along the southerly boundary of said Daytona Highridge estates, addition Unit #1 and along a curve, concave southerly, having a radius of 1700.00 feet and a central angle of 37 degrees 42 minutes 45 seconds; thence easterly, along the arc of said curve to the right, a distance of 1118.95 feet, said arc subtended by a chord which bears north 89 degrees 26 minutes 31 seconds east, a distance of 1098.86 feet to the end of said curve; thence continuing along the southerly boundary of said Daytona Highridge Estates, addition Unit #1 south 08 degrees 27 minutes 01 seconds east, a distance of 112.52 feet to a point on a curve, said point being also the southwest corner of Lot 15, Block 7, Daytona Highridge Estates, addition Unit #1 and said point being the beginning of a curve, concave northerly, having a radius of 300.00 feet and a central angle of 47 degrees 29 minutes 00 seconds; thence southeasterly, along the arc of said curve to the left, a distance of 248.62 feet, said arc subtended by a chord which bears south 66 degrees 52 minutes 56 seconds east, a distance of 241.57 feet to the end of said curve; thence continuing along the southerly boundary of Daytona Highridge Estates, addition Unit #1 for the following courses and distances; north 89 degrees 24 minutes 24 seconds east, a distance of 324.92 feet; north 00 degrees 32 minutes 50 seconds west, a distance of 25.28 feet; north 89 degrees 25 minutes 44 seconds east, a distance of 125.09 feet to the southeast corner of Lot 1, Block 7 of Daytona Highridge Estates, addition Unit #1, said point also being in the west line of Roosevelt Blvd., a 200 foot right-of-way as established and occupied; thence along said westerly right-of-way south 00 degrees 34 minutes 45 seconds east, a distance of 2435.00 feet; thence departing said westerly right of way, south 89 degrees 25 minutes 15 seconds west, a distance of 530.00 feet to a point; thence south 00 degrees 34 minutes 45 seconds east, a distance of 247.06 feet to a point; thence south 51 degrees 43 minutes 57 seconds east, a distance of 815.76 feet to a point, said point being in the westerly line of Interstate Highway No. 4 (I-4) as established and occupied; thence along said westerly right of way line, south 39 degrees 37 minutes 38 seconds west, a distance of 561.49 feet to a point, said point being on the south line of section 7 aforesaid; thence south 88 degrees 22 minutes 46 seconds west, along the said south line of section 7, a distance of 2,555.32 feet to the southwest corner of section 7 aforesaid; thence north 00 degrees 18 minutes 45 seconds west, along the west line of said section 7, a distance of 4,275.05 feet; thence departing said west line of section 7, north 87 degrees 58 minutes 15 seconds east, a distance of 25.00 feet; thence north 00 degrees 18 minutes 45 seconds west, a distance of 500.00 feet; thence north 89 degrees 38 minutes 23 seconds east, a distance of 474.38 feet; thence north 00 degrees 13 minutes 50 seconds west, a distance of 500.64 feet to the point of beginning, said parcel contains 253.20 acres, more or less.

EXHIBIT "A"

BOOK: 4150
PAGE: 74

VOLUSIA COUNTY,
FLORIDA



152

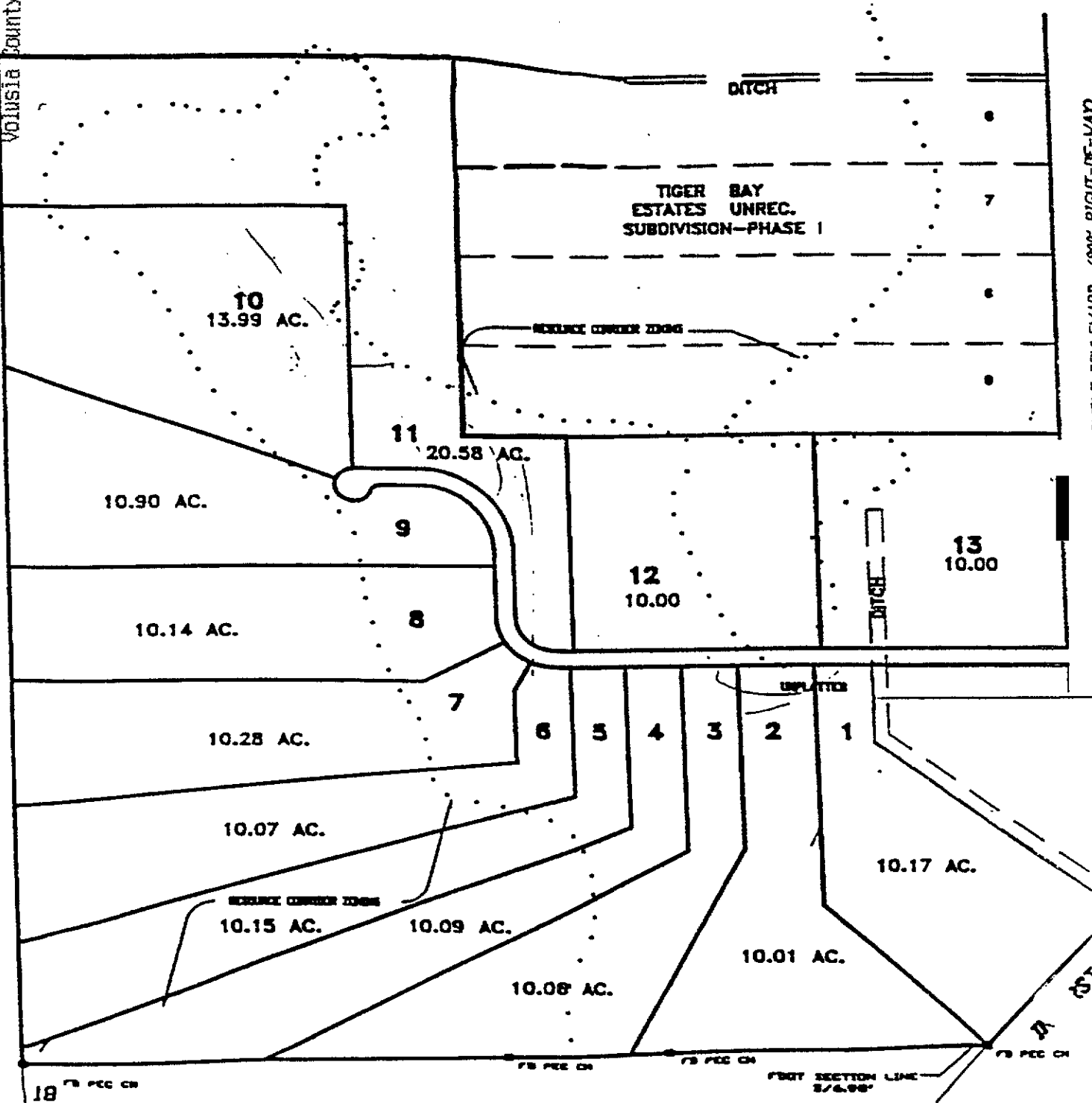
Exhibit "B"

VOLUSIA COUNTY, FLORIDA

Book: 4150
Page: 75

N 00°18'45" W 4275.03' (FM)

Diane M. Matousek
Volusia County, Clerk of Court



UNRECORDED SUBDIVISION

151

Exhibit "B"

COUNTY OF VOLUSIA, FLORIDA

IN RE: Application of:

Blue Palm Investment LLC.

MINOR AMENDMENT TO ORDER AND RESOLUTION #96-117

Tiger Bay Estates RPUD

Whereas, Section 813.06 of Volusia County Ordinance No. 80-8, as amended, provide for "Minor Amendments not altering the intent and purpose" of a n approved Planned Unit Development's (PUD) Overall Development Plan; and

Whereas, Blue Palm Investments LLC, has duly filed a request for "Minor Amendment" to the Tiger Bay Estates RPUD pursuant to the order issued in Resolution #96-117 (zoning case PUD-04-___);

Whereas, to meet requirements of the Volusia County Land Development Code Ordinance No. 88-3, as amended, certain modifications to the development plan will result in revision to the recorded Preliminary Plan of Resolution #96-117.

Whereas, the Volusia County Zoning Enforcement Official issued approval of such "Minor Amendment" by letter dated June 29th, 2004, a copy of which is attached hereto and recorded with this;

Whereas, the proposed minor amendment complies with the Development Standards set forth in Resolution #96-117, including minimum lot sizes in excess of ten (10) acres and includes adequate upland areas to construct single family dwelling and associated accessory uses without interfering with the wetland buffers or conservation easements recorded on said lot.

NOW, THEREFORE, Resolution # 96-117 is here amended, as follows:

The Phase II Plan is hereby amended to allow for the division of Lot 7, an approximately 40.72 acre parcel into two lots of approximately 20.0 acres and 20.72 acres each. The upland buffer and Conservation Easement on these two lots shall remain intact without modification. All other requirements and restrictions contained in 96-117 shall remain in full force and effect.

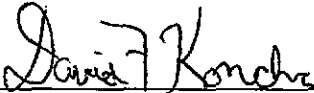
Said action has caused the preceding to be recorded in the Public Records of Volusia County, Florida.

DONE AND ORDERED by the Volusia County Zoning Enforcement Official this ____ day of _____ 2004.

WITNESSES:

Blue Palm Investment LLC

Signature




David F. Konchan, President

WITNESSES:

Volusia County Zoning Enforcement Official

Signature



Mary Robinson, Zoning Director

