

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Paul H. Freeman, Trustee, in reference to Creekside, has properly filed an application for a rezoning from the AG-2 district to Commercial Planned Development and Residential Planned Development; and

WHEREAS, the subject property is located on the southwest corner of Koreshan Boulevard and Three Oaks Parkway, Estero, described more particularly as:

LEGAL DESCRIPTION: In Section 27, Township 46 South, Range 25 East, Lee County, Florida:

RPD Parcel

A parcel of land lying in the Northeast Quarter (NE1/4) of Section 27, Township 46 South, Range 25 East, Lee County, Florida and more particularly described as follows:

Commencing at the Northeast corner of said Section 27;
THENCE run S88°38'24"W along the North line of the Northeast Quarter (NE1/4) of said Section 27 for 2,591.00 feet to the Northwest corner of the Northeast Quarter (NE1/4) of said Section 27;
THENCE run S00°39'42"E along the West line of said Northeast Quarter (NE1/4) for 75.68 feet to a point on the Southerly right-of-way line of Koreshan Boulevard;
THENCE run Northeasterly along said Southerly right-of-way line for 151.23 feet on the arc of a curve concave Southerly having a radius of 16,925.00 feet and a central angle of 00°30'43" to a POINT OF TANGENCY;
THENCE run N88°38'24"E along said Southerly right-of-way line for 1,758.93 feet;
THENCE run N89°22'36"E along said Southerly right-of-way line for 350.03 feet;
THENCE run N88°38'24"E along said Southerly right-of-way line for 281.64 feet to a Point of Curvature;
THENCE run Southeasterly for 78.59 feet on the arc of a curve concave Southwesterly having a radius of 50.00 feet and having a central angle of 90°03'25" to a point on the Westerly right-of-way line of Three Oaks Parkway and the East line of the Northeast Quarter (NE1/4) of said Section 27;
THENCE run S01°18'11"E along said Westerly right-of-way line for 597.48 feet;
THENCE run S88°41'49"W along said right-of-way line for 15.00 feet;
THENCE run S01°18'11"E along said Westerly right-of-way line for 406.49 feet to the POINT OF BEGINNING;
THENCE run S88°41'49"W for 12.12 feet to a point on the Southerly top of bank of a creek;
THENCE run the following courses and distances along the Southerly meanders of said creek:
THENCE run N77°33'33"W for 39.80 feet;
THENCE run N52°26'21"W for 17.04 feet;
THENCE run N84°25'52"W for 30.37 feet;
THENCE run S82°17'30"W for 35.26 feet;
THENCE run N65°09'33"W for 16.18 feet;
THENCE run S46°12'33"W for 46.63 feet;
THENCE run N46°28'07"W for 23.47 feet;
THENCE run N84°54'13"W for 30.91 feet;
THENCE run N84°25'40"W for 28.53 feet;
THENCE run N84°15'20"W for 40.97 feet;
THENCE run N86°57'04"W for 33.57 feet;
THENCE run S27°11'11"W for 20.27 feet;
THENCE run S01°32'31"E for 34.84 feet;
THENCE run S39°22'37"E for 21.60 feet;
THENCE run S04°18'44"E for 33.40 feet;

continued...

THENCE run S22°21'47"W for 36.77 feet;
 THENCE run S31°24'28"W for 27.74 feet;
 THENCE run S55°14'41"W for 25.19 feet;
 THENCE run S35°53'48"W for 18.10 feet;
 THENCE run S17°03'24"E for 17.38 feet;
 THENCE run S61°12'11"W for 28.77 feet;
 THENCE run S42°04'32"W for 36.36 feet;
 THENCE run N87°30'45"W for 24.78 feet;
 THENCE run S16°30'11"W for 22.14 feet;
 THENCE run S76°34'51"W for 47.00 feet;
 THENCE run S87°39'56"W for 30.93 feet;
 THENCE run S76°31'18"W for 58.50 feet;
 THENCE run S27°12'07"W for 24.27 feet;
 THENCE run S72°58'37"W for 39.55 feet;
 THENCE run N85°40'53"W for 28.29 feet;
 THENCE run S62°34'41"W for 14.93 feet;
 THENCE run S86°08'44"W for 36.02 feet;
 THENCE run N85°26'57"W for 50.59 feet;
 THENCE run S35°54'13"W for 17.57 feet;
 THENCE run N87°56'32"W for 29.35 feet;
 THENCE run S24°49'07"W for 33.09 feet;
 THENCE run S49°51'06"W for 15.12 feet;
 THENCE run S02°45'24"W for 41.68 feet;
 THENCE run S27°07'34"W for 36.54 feet;
 THENCE run S65°40'24"W for 21.30 feet;
 THENCE run S79°48'03"W for 63.83 feet;
 THENCE run S30°47'28"W for 38.12 feet;
 THENCE run S81°01'48"W for 73.07 feet;
 THENCE run S78°50'52"W for 0.34 feet;
 THENCE leaving said meander line, run N01°18'11"W for 1,285.77 feet;
 THENCE run S88°38'24"W for 193.38 feet;
 THENCE run N01°21'36"W for 250.00 feet to a point on the Southerly right-of-way line of said Koreshan Boulevard;
 THENCE run S88°38'24"W along said Southerly right-of-way line for 1,196.70 feet to a POINT OF CURVATURE;
 THENCE run Southwesterly along said Southerly right-of-way line for 151.23 feet on the arc of a curve concave Southerly, having a radius of 16,925.00 feet and a central angle of 00°30'43" to a point on the West line of said Northeast Quarter (NE1/4);
 THENCE run S00°39'42"E along said West line for 2,216.80 feet;
 THENCE run N88°55'30"E for 1,309.24 feet;
 THENCE run S00°52'32"E for 335.77 feet to a point on the South line of said Northeast Quarter (NE1/4);
 THENCE run N89°10'12"E along said South line for 1,309.98 feet to the Southeast corner of the Northeast Quarter (NE1/4) of said Section 27 and a point on the Westerly right-of-way line of said three Oaks Parkway;
 THENCE run N01°18'11"W along said Westerly right-of-way line for 1,001.67 feet;
 THENCE run S88°41'49"W along said right-of-way line for 15.00 feet;
 THENCE run N01°18'11"W along said Westerly right-of-way line for 511.51 feet to the POINT OF BEGINNING.

Herein described parcel contains 111.48 acres, more or less.

CPD Parcel

A parcel of land lying in the Northeast Quarter (NE1/4) of Section 27, Township 46 South, Range 25 East, Lee County, Florida and more particularly described as follows:

Commencing at the Northeast corner of said Section 27;
 THENCE run S88°38'24"W along the North line of the Northeast Quarter (NE1/4) of said Section 27 for 2,591.00 feet to the Northwest corner of the Northeast Quarter (NE1/4) of said Section 27;
 THENCE run S00°39'42"E along the West line of said Northeast Quarter (NE1/4) for 75.68 feet to a point on the Southerly right-of-way line of Koreshan Boulevard;

continued...

THENCE run Northeasterly along said Southerly right-of-way line for 151.23 feet on the arc of a curve concave Southerly having a radius of 16,925.00 feet and a central angle of 00°30'43" to a POINT OF TANGENCY;

THENCE run N88°38'24"E along said Southerly right-of-way line for 1,196.70 feet to the POINT OF BEGINNING;

THENCE continue N88°38'24"E along said Southerly right-of-way line for 562.23 feet;

THENCE run N89°22'36"E along said Southerly right-of-way line for 350.03 feet;

THENCE run N88°38'24"E along said Southerly right-of-way line for 281.64 feet to a POINT OF CURVATURE;

THENCE run Southeasterly for 78.59 feet on the arc of a curve concave Southwesterly having a radius of 50.00 feet and having a central angle of 90°03'25" to a point on the Westerly right-of-way line of Three Oaks Parkway and the East line of the Northeast Quarter (NE1/4) of said Section 27;

THENCE run S01°18'11"E along said Westerly right-of-way line for 597.48 feet;

THENCE run S88°41'49"W along said right-of-way line for 15.00 feet;

THENCE run S01°18'11"E along said Westerly right-of-way line for 406.49 feet;

THENCE run S88°41'49"W for 12.12 feet to a point on the Southerly top of bank of a creek;

THENCE run the following courses and distances along the Southerly meanders of said creek:

THENCE run N77°33'33"W for 39.80 feet;

THENCE run N52°26'21"W for 17.04 feet;

THENCE run N84°25'52"W for 30.37 feet;

THENCE run S82°17'30"W for 35.26 feet;

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THENCE run S81°01'48"W for 73.07 feet;
THENCE run S78°50'52"W for 0.34 feet;
THENCE leaving said meander line, run N01°18'11"W for 1,285.77 feet;
THENCE run S88°38'24"W for 193.38 feet;
THENCE run N01°21'36"W for 250.00 feet to the POINT OF BEGINNING.

Herein described parcel contains 31.26 acres, more or less.

WHEREAS, the applicant has indicated the property's current STRAP number is 27-46-25-00-01007.0000; and

WHEREAS, proper authorization has been given to Carleton Ryffel and/or Alan Freeman by Paul H. Freeman, Trustee, the fee simple owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on March 15, 1994; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE WITH CONDITIONS a rezoning from AG-2 to Commercial Planned Development and Residential Planned Development.

The rezoning and Master Concept Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development of this project shall be in accordance with the two-page Master Concept Plan identified as "Creekside, RPD/CPD Master Concept Plan for Corlico Development Associates, Inc.," (Job #110-02-93), prepared by Source, Inc., dated 6-1-93, last revised 11-12-93, stamped received February 8, 1994, except as modified by the conditions below. This approval does not alleviate the need to comply with all state and county development regulations except as specifically modified by this approval.
2. The uses of this property shall be limited to those uses listed on the MCP, except that Recreational Facilities, Commercial, shall not be permitted in the RPD. The "Project Notes and Standards" for both the CPD and the RPD shall be the property development regulations, except the ACLF use shall comply with the Zoning Ordinance's specific provisions for that use.

The RPD may include up to a maximum of 500 units, of which 250 may be multi-family and 250 may be single-family. Also, the waterbody setback for any use in either CPD or RPD shall be a minimum of 25 feet from any natural waterbody.

3. The access road connection shown in the RPD section along Koreshan Boulevard shall be constructed concurrently with any residential unit construction, i.e., the "future" designation has no meaning.
4. The project's easternmost access point onto Koreshan Boulevard shall be limited to right-in/right-out only.
5. The developer shall be entitled to continue bona fide agricultural uses that are now in existence on the property. However, no development activity of any kind shall occur on the property, including clearing of vegetation or cutting of trees, unless such activity is reviewed and approved in accordance with all applicable Lee County regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemptions or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.

6. This zoning approval does not indicate that the project's traffic impacts have been mitigated. Additional conditions may be required at the time of issuance of a local Development Order, per the Development Standards Ordinance or other Lee County ordinances.
7. Approval of this rezoning does nothing more than change the zoning district wherein the subject property lies, and does not grant or vest in the developer any present or future development rights that may exceed any Lee Plan use restrictions as set forth in 2010 (Roberts) Overlay or any other Lee Plan provision.
8. Environmental conditions:
 - a. Prior to Certificate of Compliance for the First Development Order, the Wildlife Preserve Area totaling 3± acres shall be placed under a Conservation Easement in perpetuity listing Lee County and the Creekside Homeowners' Association as Grantees.
 - b. The "Management Plan for Creekside", dated June, 1993 and counter stamped July 9, 1993, shall be adopted as part of this rezoning, with the exception that the last paragraph of such plan shall be changed to read "Certificate of Compliance", which shall replace the words "Final Development Order".
 - c. Within the bounds of the "Recreation Area" no active or inactive gopher tortoise burrow shall be destroyed. This is not meant to prohibit passive recreation, or some limited clearing, as long as no active or inactive burrow is destroyed.
 - d. The Mitigation Plan for Deviation (11) date stamped November 12, 1993, (included as part of a submittal letter to Kay Deselem, Division of Zoning and dated November 3, 1993, from Alan Freeman) shall be adopted as part of this rezoning approval and shall be made a part of the local Development Order approval.
 - e. The area labeled as "Mitigation Area" on the MCP dated November 12, 1993, shall be relabeled and become a part of the Wildlife and Recreation Area preserve.
9. Deviation (1)-CPD is a request to allow the developer to provide less parking than is required by Zoning Ordinance Section 202.16.J.5.a.2. Deviation (1)-CPD is hereby DENIED.

Deviation (2)-CPD is a request to eliminate the need to interconnect the RPD and CPD portions of the project along Three Oaks Parkway (DSO Sections 9.N. and O.). Deviation (2)-CPD is hereby APPROVED.

Deviation (3)-CPD is a request to eliminate the need for an access road along Three Oaks Parkway (DSO Section 9.C.1.). Deviation (3)-CPD is hereby APPROVED.

Deviation (4)-CPD is a request to allow the developer to utilize a specific open space table per Zoning Ordinance Section 804.02.C.3. (DSO Section 13.C.1.c.). Deviation (4)-CPD is hereby APPROVED.

Deviation (1)-RPD is a request to eliminate the required interconnection to adjacent properties along the western and southern boundaries (DSO Sections 9.N. and O.). Deviation (1)-RPD is hereby APPROVED.

Deviation (2)-RPD is a request to omit the required access road along Three Oaks Parkway (DSO Section 9.C.1.). Deviation (2)-RPD is hereby APPROVED.

Deviation (3)-RPD is WITHDRAWN.

Deviation (4)-RPD is a request to allow the developer to utilize a specific open space table per Zoning Ordinance Section 804.02.C.3 (DSO Section 13.C.1.c.). Deviation (4)-RPD is hereby DENIED.

Deviation (5)-RPD is a request to allow lake depths of 25 feet rather than the required maximum of twelve feet (DSO Section 10-1.5.c.). Deviation (5)-RPD is hereby DENIED.

Deviation (6)-RPD is a request to establish property development regulations for the project. Deviation (6)-RPD is hereby APPROVED with the condition that a 25-foot natural waterbody setback shall be maintained, and that the setbacks for Adult Congregate Living Facilities (ACLF) units/structures shall be maintained in accordance with Section 502, except as set out in Deviation (12)-RPD below.

Deviation (7)-RPD is a request to allow flexibility in sign placement, (Ord. #85-26, as amended, Sections IV.B.2. and B.4.). Deviation (7)-RPD is hereby APPROVED with the condition that approval is conceptual only; actual circumstances shall be subject to review and approval at the time of Development Order submittal.

Deviations (8)-RPD, (9)-RPD and (10)-RPD are WITHDRAWN.

Deviation (11)-RPD is a request to allow placement of a culverted crossing in a Resource Protection Area (Ord. #86-31, as amended). Deviation (11)-RPD is hereby APPROVED subject to compliance with condition 8.d and 8.e.

Deviation (12)-RPD is a request to allow motel standards to be used for the ACLF uses (Zoning Ordinance Section 502.C.). Deviation (12)-RPD is hereby APPROVED only for the standards set out in Zoning Ordinance Sections 514.B.1. and B.2., and only for those ACLF uses which will not provide kitchen facilities.

Site Plan 94-009 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings and conclusions were made in conjunction with this approval of CPD and RPD zoning:

- A. That recent CPD and RPD rezonings in the vicinity of the subject property make the CPD/RPD rezoning appropriate.
- B. That the CPD/RPD, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance.
- C. That the CPD/RPD, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, and with the densities, intensities and general uses set forth in the Lee Plan.
- D. That the CPD/RPD, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed uses.
- E. That the CPD/RPD, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.
- F. That the CPD/RPD, as conditioned, will be compatible with existing or planned uses, and will not cause damage, hazard, nuisance or other detriment to persons or property.
- G. That the location of the CPD/RPD does not place an undue burden upon existing transportation or other services and facilities, and the CPD/RPD, as conditioned, will be served by streets with the capacity to carry traffic generated by the development.
- H. That the CPD/RPD, as conditioned, will comply with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.
- I. That the proposed mix of uses is appropriate at the subject location.
- J. That sufficient safeguards to the public interest are provided by the recommended conditions to the Master Concept Plan or by other applicable regulations.

- K. That all recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
- L. That each approved deviation, as conditioned, enhances the achievement of the objectives of the planned development, and preserves and promotes the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner John E. Albion, and seconded by Commissioner John E. Manning and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 2nd day of May, A.D., 1994.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Spa L. Pierce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Ray Judah*
Chairman

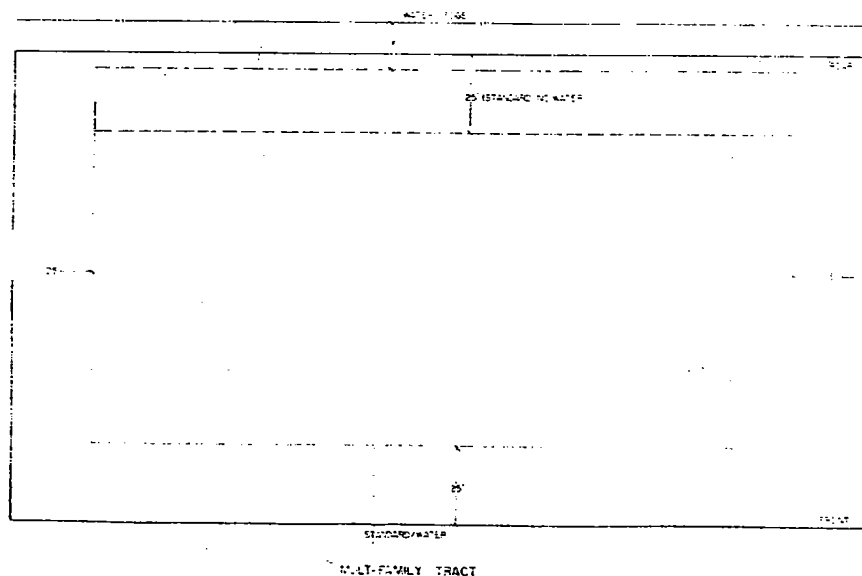
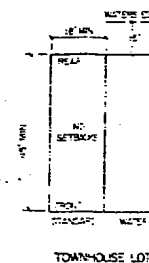
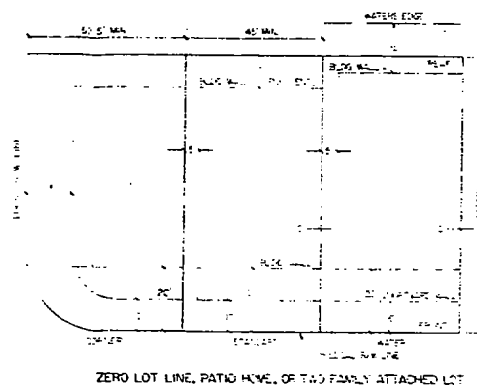
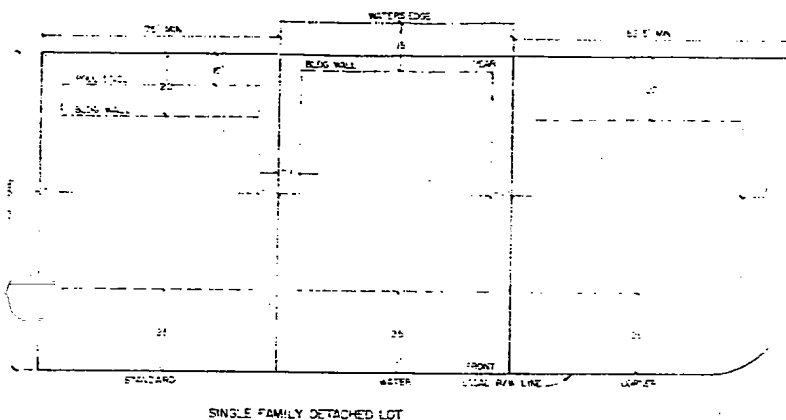
Approved as to form by:

[Signature]
County Attorney's Office

FILED

MAY 11 1994

CLERK CIRCUIT COURT
BY *Spa L. Pierce* D.C.



LEGEND
 ——— PROPERTY LINE
 - - - - - BUILDING WALL/POOL ENCL. SETBACK LINE

APPROVED

Master Concept Plan
 Site Plan # 94-09, Page 2 of 2
 Subject to conditions in Resolution Z-94-009
 Zoning Case # 94-03-15-001-01

CREEKSIDE
 LPD / CPD MASTER CONCEPT PLAN FOR
 CREEKCO DEVELOPMENT ASSOCIATES, INC.

RECEIVED
 FEB 8 8 1994

ZONING COUNCIL

PROPOSED SETBACK ILLUSTRATIONS

CARLETON RYTEL, A.I.C.P., INC. LAND PLANNER / ZONING CONSULTANT 1746 TOWN CENTER DRIVE, SUITE 100 TAMPA, FL 33606		SOURCE, INC. ENGINEERS / PLANNERS 334 LAFAYETTE STREET TAMPA, FLORIDA 33606		SHEET NO. 2
		DATE 1/28/94	OF 2	