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

WHEREAS, an application was filed by the property owner, Leon Smizer, to rezone a 2.28± acre parcel from Agricultural (AG-2) to General Commercial (CG) in reference to Smizer Rezoning; and

WHEREAS, a public hearing was advertised and held on July 20, 2005, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #REZ2005-00003; and

WHEREAS, a second public hearing was advertised and held on October 17, 2005, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 2.28± acre parcel from AG-2 to CG, to allow development of office buildings. The property is located in the Outlying Suburban Land Use Category and is legally described in attached Exhibit A. The request to rezone a 2.28± acre parcel from AG-2 to CN-3 is APPROVED.

SECTION B. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

Exhibit A: Legal description of the property
Exhibit B: Zoning Map (subject parcel identified with shading)

The applicant has indicated that the STRAP number for the subject property is: 22-45-25-00-00001.0030.

SECTION C. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the CN-3 zoning district by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.

2. The proposed uses will meet or exceed all performance and locational standards set forth for the potential uses allowed in the CN-3 district.

COPY

3. The CN-3 zoning is consistent with the densities, intensities and general uses set forth in the Lee Plan.

4. The uses allowed in the CN-3 district will be compatible with existing or planned uses in the surrounding area.

5. The approval of the CN-3 district will not place an undue burden upon existing transportation or planned infrastructure facilities, and the proposed development will be served by streets with the capacity to carry traffic it generates.

6. The CN-3 district will not adversely affect environmentally critical areas and natural resources.

7. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

8. The CG zoning district contains uses that are too intensive for this site and area, and, thus, is not appropriate for approval.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Judah, seconded by Commissioner Hall and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammy Hall	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 17th day of October 2005.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

Approved as to form by:

_____
Dawn E. Perry-Lehnert
County Attorney's Office

REZ 2005-00003

SURVEY DESCRIPTION:

TRACT 38 OF **COLONIAL RANCHETTES, INC.,** AN UNRECORDED SUBDIVISION MORE PARTICULARLY DESCRIBED AS FOLLOWS:
THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4), SECTION TWENTY-TWO (SEC. 22), TOWNSHIP FORTY-FIVE SOUTH (T45S), RANGE TWENTY-FIVE EAST (R25E), CONTAINING TWO AND ONE-HALF (2 1/2) ACRES MORE OR LESS. SUBJECT TO EASEMENTS FOR ROADWAY PURPOSES OVER AND ACROSS THE EAST THIRTY FEET (E30') THEREOF, TOGETHER WITH INGRESS AND EGRESS OVER AND ACROSS ROAD EASEMENTS AS DESCRIBED IN O.R. BOOK 444, AT PAGES 487 TO 489 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. LESS THE SOUTHERLY 22.50 FEET FOR ROAD RIGHT-OF-WAY PER OFFICIAL RECORDS BOOK 4134/PAGE 4803 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

ALSO DESCRIBED AS FOLLOWS:
TRACT 38 OF COLONIAL RANCHETTES, INC., AN UNRECORDED SUBDIVISION IN THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 22: THENCE S 89°31'48"E, ALONG THE CENTERLINE OF DANIELS PARKWAY AND THE SOUTH LINE OF SAID QUARTER SECTION, FOR A DISTANCE OF 643.94 FEET TO THE CENTERLINE OF A 60 FOOT ROADWAY EASEMENT KNOWN AS PALOMINO ROAD: THENCE N 00°00'00"E, ALONG SAID CENTERLINE FOR A DISTANCE OF 353.35 FEET TO THE POINT OF BEGINNING: THENCE N 89°25'08"W, ALONG THE NORTH RIGHT-OF-WAY LINE (45' WIDE) OF KING'S CROSSING, FOR A DISTANCE OF 322.38 FEET: THENCE N 00°04'14"W, FOR A DISTANCE OF 308.98 FEET: THENCE S 89°18'28"E, FOR A DISTANCE OF 322.79 FEET TO THE CENTERLINE OF SAID PALOMINO ROAD: THENCE S 00°00'00"W, FOR A DISTANCE OF 308.35 FEET TO THE POINT OF BEGINNING.
SUBJECT TO AND TOGETHER WITH ROADWAY EASEMENTS OVER THE EAST 30 FEET THEREOF (PALOMINO ROAD) AND 45 FEET SOUTH OF THE SOUTH PROPERTY LINE (KING'S CROSSING) AND ROAD EASEMENTS DESCRIBED IN OFFICIAL RECORDS BOOK 444, AT PAGES 487-489 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
CONTAINING 2.28 ACRES, MORE OR LESS.
THE EAST PROPERTY LINE IS ASSUMED TO BEAR AS SHOWN AND ALL OTHERS ARE RELATIVE THERETO.

THE PROPERTY SHOWN HEREON IS LYING IN ZONE B OF THE NATIONAL FLOOD INSURANCE PROGRAM.

Applicant's Legal Checked
by Lsm 5/20/2005

REVISIONS:

REVISED LEGAL 5-16-05
REVISED AREA 12-19-04
REVISED PROPERTY LINES TO NEW INFORMATION 12/10/2004
REVISED PROPERTY LINES 12/6/2004

FILE DISK: NOV 04-7

DATE: NOVEMBER 6, 2004

CREW: HOLMES/DAVIDSON/WATERS

ATTORNEY'S
REAL ESTATE
LAND SURVEYING
INC.
1930 PARK MEADOWS DRIVE
SUITE 9
FORT MYERS, FLORIDA
(239) 277-7330

RECEIVED
MAY 16 2005
ZONING

RECEIVED
MAY 16 2005

REZ2005-00003

EXHIBIT A
PAGE 2 OF 2

BOUNDARY SURVEY

SURVEY DESCRIPTION:

TRACT 38 OF COLONIAL RANCHETTES, INC., AN UNRECORDED SUBDIVISION MORE PARTICULARLY DESCRIBED AS FOLLOWS:
THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTH-WEST QUARTER (SW 1/4) OF THE SOUTH-WEST QUARTER (SW 1/4) OF THE NORTH-WEST QUARTER (NW 1/4), SECTION TWENTY-TWO (SEC. 22), TOWNSHIP FORTY-FIVE SOUTH (T45S), RANGE TWENTY-FIVE EAST (R25E), CONTAINING TWO AND ONE-HALF (2 1/2) ACRES MORE OR LESS, SUBJECT TO EASEMENTS FOR ROADWAY PURPOSES OVER AND ACROSS THE EAST THIRTY FEET (E30') THEREOF, TOGETHER WITH INGRESS AND EGRESS OVER AND ACROSS ROAD EASEMENTS AS DESCRIBED IN O.R. BOOK 444, AT PAGES 487 TO 489 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LESS THE SOUTHERLY 22.50 FEET FOR ROAD RIGHT-OF-WAY PER OFFICIAL RECORDS BOOK 4134/PAGE 4803 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
ALSO DESCRIBED AS FOLLOWS:
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COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 22; THENCE S 89°31'48"E, ALONG THE CENTERLINE OF DANIELS PARKWAY AND THE SOUTH LINE OF SAID QUARTER SECTION, FOR A DISTANCE OF 643.94 FEET TO THE CENTERLINE OF A 60 FOOT ROADWAY EASEMENT KNOWN AS PALOMINO ROAD; THENCE N 00°00'00"E, ALONG SAID CENTERLINE FOR A DISTANCE OF 353.35 FEET TO THE POINT OF BEGINNING; THENCE N 89°25'08"W, ALONG THE NORTH RIGHT-OF-WAY LINE (45' WIDE) OF KING'S CROSSING, FOR A DISTANCE OF 322.38 FEET; THENCE N 00°04'14"W, FOR A DISTANCE OF 308.98 FEET; THENCE S 89°18'28"E, FOR A DISTANCE OF 322.79 FEET TO THE CENTERLINE OF SAID PALOMINO ROAD; THENCE S 00°00'00"W, FOR A DISTANCE OF 308.35 FEET TO THE POINT OF BEGINNING.
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CONTAINING 2.28 ACRES, MORE OR LESS.
THE EAST PROPERTY LINE IS ASSUMED TO BEAR AS SHOWN AND ALL OTHERS ARE RELATIVE THERETO.

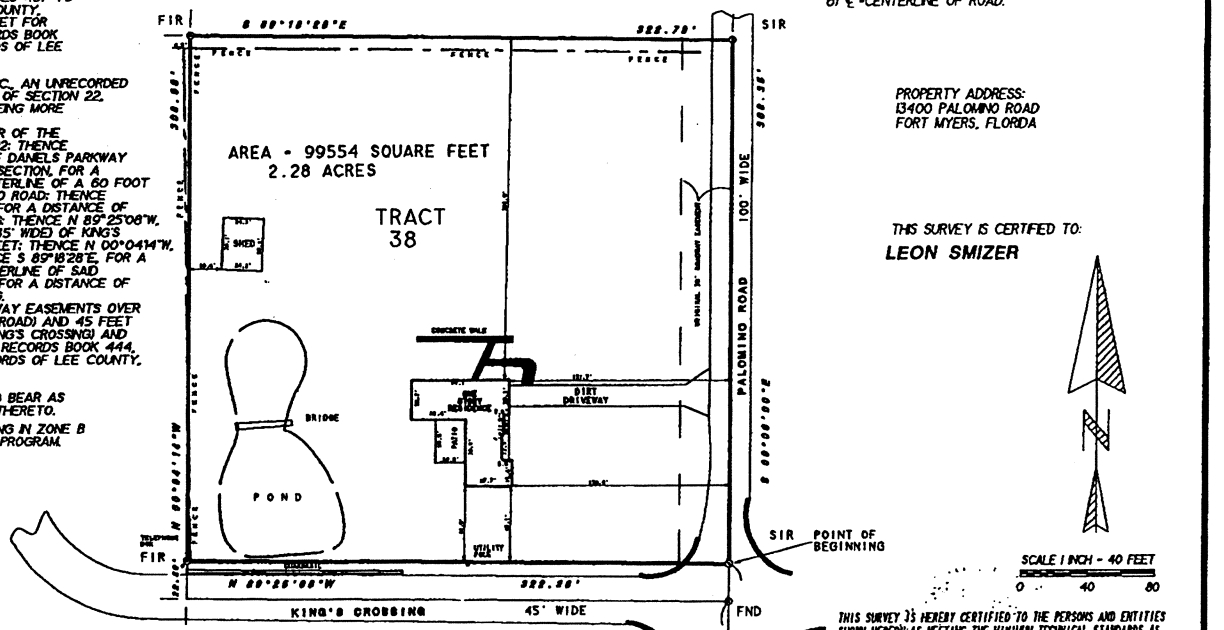
THE PROPERTY SHOWN HEREON IS LYING IN ZONE B OF THE NATIONAL FLOOD INSURANCE PROGRAM.

SURVEYORS NOTES:

1) FR - FOUND 1/2" IRON ROD UNLESS OTHERWISE SHOWN.
2) THE EAST LINE IS ASSUMED TO BEAR AS SHOWN.
3) SIR - SET 1/2" IRON ROD WITH CAP #LB6594.
4) SND-SET NAIL & DISK.
5) FND-FOUND NAIL & DISK.
6) ℄ -CENTERLINE OF ROAD.

PROPERTY ADDRESS:
13400 PALOMINO ROAD
FORT MYERS, FLORIDA

THIS SURVEY IS CERTIFED TO:
LEON SMIZER



Applicant's Survey Checked
By Lgm 5/20/2005

POINT OF COMMENCEMENT
WEST 1/4 CORNER SECTION 22
N 89°31'48"W 643.94'
DANIEL'S PARKWAY

THIS SURVEY IS HEREBY CERTIFIED TO THE PERSONS AND ENTITIES SHOWN HEREON AS MEETING THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY WAS PREPARED FOR MORTGAGE AND/OR REAL ESTATE PURPOSES. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CERTIFIED TITLE REPORT AND IS NOT A CERTIFICATION OF TITLE, ZONING, OR FREEDOM FROM ENCUMBERANCES OR GOVERNMENTAL JURISDICTION.

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT, MAP OR COPY OF SAME IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. NO COPIES SHALL BE MADE OF THIS INSTRUMENT WITHOUT THE WRITTEN PERMISSION OF THE SIGNING SURVEYOR.

L. LARRY GARDNER PROFESSIONAL SURVEYOR AND MAPPER #4291.

JOB NUMBER 04-1444

REVISIONS:
REVISED LEGAL 6-16-05
REVISED AREA 12-19-04
REVISED PROPERTY LINES TO NEW INFORMATION 12/16/2004
REVISED PROPERTY LINES 12/8/2004

FILE DISK: NOV 04-7

DATE: NOVEMBER 6, 2004

CREW: HOLMES/DAVIDSON/WATERS

ATTORNEY'S REAL ESTATE LAND SURVEYING INC.
1930 PARK MEADOWS DRIVE
SUITE 9
FORT MYERS, FLORIDA
(239) 277-7330
(239) 481-0404
(239) 277-7332 FAX

ZONING INTAKE MAP

6/29/2005

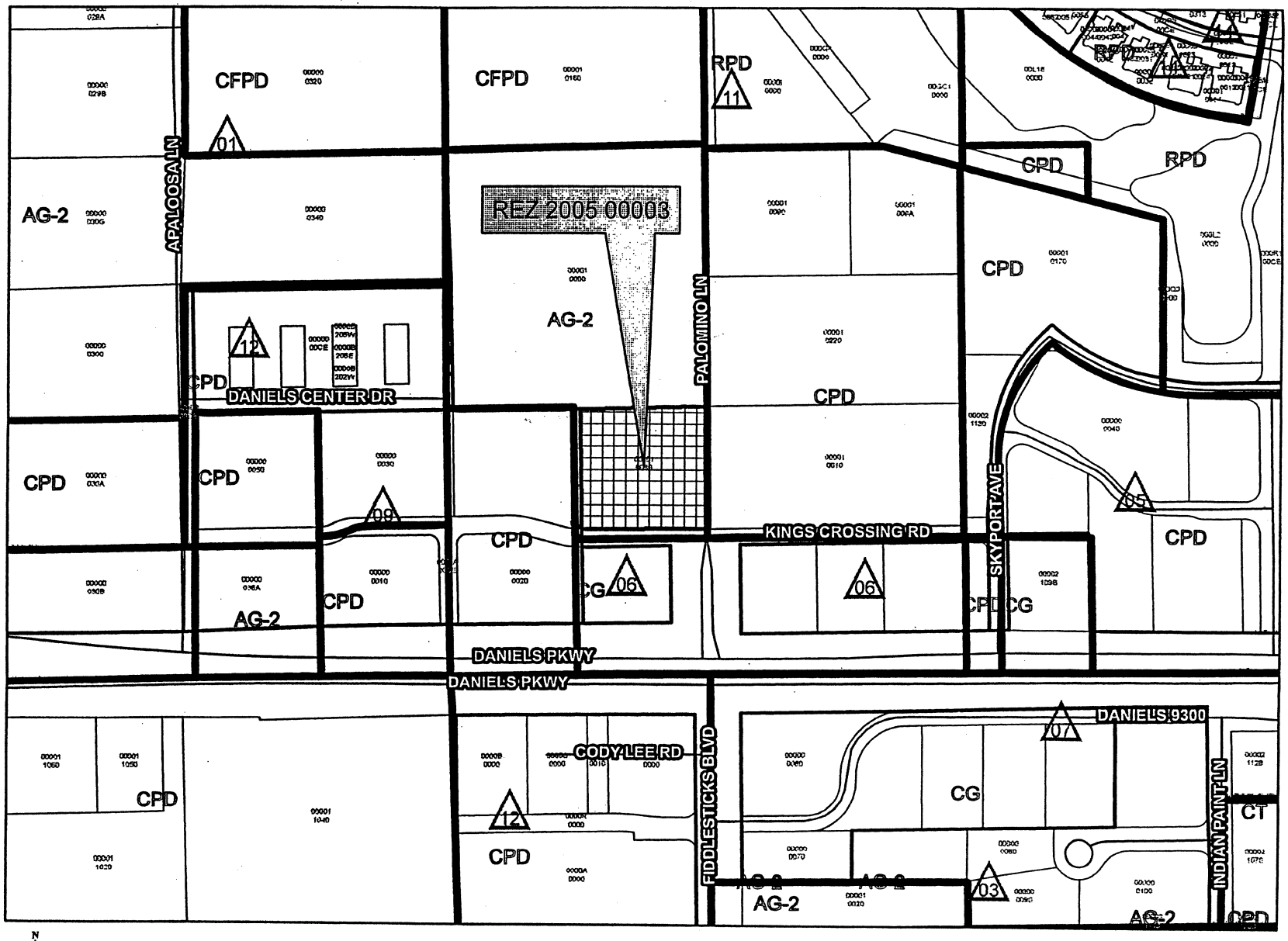


EXHIBIT B