# **RESOLUTION NUMBER Z-00-076**

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

WHEREAS, an application was filed by the property owner, Harper Brothers, Inc., to amend an existing Industrial Planned Development (IPD) known as the Green Meadow Mine; and

WHEREAS, a public hearing was advertised and held on November 22, 2000, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2000-00044; and

WHEREAS, a second public hearing was advertised and held on January 29, 2001 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 amend an existing Industrial Planned Development to modify the approved phasing schedule and increase the depth of the excavation from 55 feet to a maximum of 68 feet, or the confining layer, whichever occurs first. The property is located in the Density Reduction/Groundwater Resource and Wetlands Land Use Categories and legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

#### SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The Master Concept Plan (MCP) adopted in Condition 1 of Resolution Z-92-036A, Condition 1 of Resolution Z-96-068, and Condition 1 of Administrative Amendment PD-97-003 is hereby replaced with the 10-page Master Concept Plan entitled."I.P.D. Modification Plans for Harper Bros., Inc.," with all pages stamped "Received Jun 12, 2000," (except page 6, which is stamped received December 4, 2000), except as modified by the conditions below. This development must be substantially consistent with this adopted MCP and must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

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- 3. The permanent stockpiling of mined material is not permitted within 100 feet of any preserve.
- 4. Prior to issuance of an Excavation/Mining Operations Permit for the Green Meadows Mine IPD, an alligator management plan per LDC §10-474 must be submitted to Environmental Sciences staff for review and approval.
- 5. The maximum depth of this excavation is 68 feet, or the confining layer, whichever occurs first.
- 6. The Phasing of this project is hereby amended as proposed on Page 6 of 10 of the MCP. All previous conditions of Resolutions Z-92-036A and Z-96-068 and Administrative Amendment PD-97-003 relating directly to the phasing of this excavation are amended by this condition.
- 7. Until such time as the proposed road improvements on Corkscrew Road are completed, trucks entering or leaving the mine must be instructed not to use Corkscrew Road, west of Alico Road, for access to or from I-75 or U.S. 41, and must instead be instructed to use Alico Road. The owner and/or operator of the mine or their successors must instruct all trucks using the mine to observe this rule and cooperate with the other regulatory agencies in its enforcement. "Instruction" includes signs posted and clearly visible at the scale house, the office, and the egress point onto Corkscrew Road.
- 8. No expansion of the mining operations approved in this request may proceed without a new Excavation/Mining Operations Permit. As part of this new Permit, the cost of mitigating road impacts if applicable, must be paid. If determined to be applicable, the fee will be determined utilizing the procedures applicable to the independent fee calculation process set forth in the LDC, with adjustments made for the temporary nature of the mining operation and previous creditable road improvements made by the Applicant for the Greenmeadow Mine operation.
- 9. Any damage to the improved or unimproved roadways must be repaired by the holder of the Excavation/Mining Operation Permit.
- 10. Approval of this amendment request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
- 11. Approval of this amendment does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning

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Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.

12. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

### SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §34-1682(2)a.2 provision that prohibits excavation within 100 feet of any private property line under separate ownership, to allow a zero-foot setback from the north property line. The requested deviation is APPROVED, SUBJECT TO Condition 3 above.

# SECTION D. EXHIBITS:

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

- Exhibit A: The legal description and STRAP number of the property.
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: The Master Concept Plan

### SECTION E. FINDINGS AND CONCLUSIONS:

- 1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
- 2. The amendment, as approved:
  - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
  - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
  - c. is compatible with existing or planned uses in the surrounding area; and,
  - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
  - e. will not adversely affect environmentally critical areas or natural resources.
- 3. The amendment satisfies the following criteria:

- the proposed use or mix of uses is appropriate at the subject location; and a.
- the recommended conditions to the concept plan and other applicable regulations b. provide sufficient safeguard to the public interest; and
- the recommended conditions are reasonably related to the impacts on the public C. interest created by or expected from the proposed development.
- Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve 4. the proposed land use.
- The approved deviation, as conditioned, enhance achievement of the planned development 5. objectives, and preserves and promotes the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 29th day of January, 2001.

ATTEST: CHARLIE GREEN, CLERK
BY Apa Dure
Deputy Clerk
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BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA BY: Chairman

Approved as to form by:

County Attorney's Office



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#### EXHIBIT A



New Directions In Planning, Design & Engineering

#### LEGAL DESCRIPTION HARPER BROS., INC. - ALICO QUARRY SECTIONS 1,11 & 12

A parcel of land lying in sections 1, 11 and 12, Township 46 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

BEGIN at the Northeast corner of said Section 11; thence, along the West line of the Southwest onequarter of the aforementioned Section 1, North 01°09'05" West, 3,343.73 feet to the west one-quarter corner of said section 1; thence, along the West line of the Northwest one-quarter of Section 1, North 01°09'05" West, 3,336.58 feet to the Northwest corner of said section 1; thence, along the North line of the northwest corner of said section 1, South 89°38'00" East, 2,644.11 feet to the north one-quarter corner of said section 1; thence, along the North line of the Northeast one-quarter of said section 1, North 89°48'12" East, 2,653.43 feet to the northeast corner of said section 1; thence, along the East line of the Northeast one-quarter of said section 1, South 01°24'15" East, 2,638.57 feet to the east one-quarter corner of section 1; thence, along the East line of the Southeast one-quarter of said section 1, South 00°58'11" East, 3,957.15 feet to the southeast corner of said section 1; thence, along the East line of the Northeast one-quarter of the Aforementioned section 12, South 01°03'47" East, 1,979.77 feet; thence, along the South line of the North one-half of the South one-half of the North one-half of the South one-half of said section 11, South 00°54'31" West, 5,294.58 feet; thence, along the West line of the South one-half of said section 11, North 00°54'31" West, 1,320.90 feet to the west one-quarter corner of said section 11; thence, along the West line of the Northwest onequarter of said section 11, North 00°59'32" West, 2,637.92 feet to the Northwest corner of said section 11; thence, along the North line of said Section 11, North 89°10'07" East, 5,289.35 feet, to the POINT OF BEGINNING.

Said parcel contains 1,528.75 acres, more or less.

Subject to all easements, restrictions and reservations of record. Bearings are based on fixing the north line of section 11. Township 46 South, Range 26 East, Lee County, Florida, being North 89°10'07" East.

Prepared by: WilsonMiljer, Inc.

WilsonMiller, Inc.

Mark D. Haines, PSM Professional Surveyor and Mapper No. LS5312 State of Florida

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This legal description and the attached sketch are not valid without the signature and raised seal of a Florida licensed Surveyor and Mapper.

P.I.N.: 03213-000-002 MABS2 Ref: D-03213-02 Date: May 1, 2000

Applicant's Legal Checked

Naples Fort Myers Sarasota Bradenton Tampa 4571 Colonial Boulevard, Suite 100 Fort Myers, Florida 33912-1062 941-939-1020 🕿 94<u>1</u>-939-7479 🗊

5/11/00-12350 Ver: 01144HA CA #43 03213-000-000-58HD-4563

www.wiisanmiller.com WilsanMiller.inc. — FL Lic.# LC-C000170 The applicant has indicated that the STRAP number for the subject property is:

12-46-26-00-0001.0000 01-46-26-00-0001.0000 12-46-26-00-00001.4000 11-46-26-00-00001.0000 11-46-26-00-00001.8000 11-46-26-00-00001.8000 11-46-26-00-00001.4000 11-46-26-00-00001.6000 11-46-26-00-00001.5000 11-46-26-00-00001.5010 11-46-26-00-00001.2000 11-46-26-00-00001.3000

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