

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

WHEREAS, Harper Brothers, Inc. has properly filed an application on a project known as Alico Road Greenmeadow Mine Expansion for:

- (a) A rezoning from AG-2 to Industrial Planned Development, to permit excavation/mining activities on 963.3 total acres of land. The proposed development will also include areas reserved for future crushing, processing, servicing, and administration facilities.

NOTE: If approved, the Master Concept Plan will deviate from the following Lee County standards:

- (1) Requirement that properties which exhibit soils, hydrology and vegetation characteristic of saltwater inundation or freshwater ponding be subject to certain additional regulations and ordinances [202.08.C.1.b., DSO Section C.1.b.(4), and Ordinance 86-31, Section 6.03], to allow for general excavation in accordance with the Master Concept Plan;
- (2) Minimum excavation setback to a section line of 75 feet (517.G.2.a.3), to 0 (zero) feet for the east/west line between Sections 1 and 12;
- (3) Minimum excavation setback to a quarter section line of 60 feet (517.G.2.a.3), to 0 (zero) feet for all quarter section lines in Sections 1 and 12; and
- (4) Requirement that the banks for an excavation shall be sloped at a ratio not greater than 6:1 to a water depth of 4 feet below the dry season water table (517.G.7.a.), to allow the slope to be at a ratio of 4:1.

- (b) Request for approval of a general excavation permit pursuant to Section 517 of the Lee County Zoning Ordinance.

WHEREAS, the subject property is located approximately 2½ miles east of bend in Alico Road, described more particularly as:

LEGAL DESCRIPTION: In Sections 01 and 12, Township 46 South, Range 26 East, Lee County, Florida:

All of Section 01, Township 46 South, Range 26 East, Lee County, Florida,

AND

The North One Quarter (N 1/4) of Section 12, Township 46 South, Range 26 East, Lee County, Florida.

WHEREAS, the applicant has indicated the property's current STRAP numbers

are	01-46-26-00-00001.0010	01-46-26-00-00001.0000
	01-46-26-00-00001.1000	01-46-26-00-00001.1010
	01-46-26-00-00001.2000	12-46-26-00-00001.0000

7.50
Billed

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: H. HERNSTROM, D.C.

WHEREAS, proper authorization has been given to Russell P. Schropp of Henderson, Franklin, Starnes & Holt, P. A., by Daniel R. Harper of Harper Brothers, Inc., the owners 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 Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter in a public hearing held on August 1, 1988; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, 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 both requests with (rezoning to IPD and a general excavation permit) with the following conditions:

1. The development, use, and reclamation of this property shall be in accordance with the two-page Master Concept Plan for Harper Bros., Inc., prepared by Hole, Montes & Associates, Inc. (project No. 87.66 print dated July 27, 1988 received August 15, 1988), except as may be modified by the conditions herein. This approval does not relieve this development from compliance with all other applicable federal, state, or local regulations, except for those specifically approved as part of this development.
2. a. The Master Concept Plan shall be revised prior to final plan approval to temporarily delete excavation activities within the critical recharge area (five year travel time for the water table and sandstone aquifer) of the Greenmeadow Wellfield. All excavation activities shall occur outside the five year travel time contour of the Greenmeadow Wellfield until a wellfield protection ordinance is established. When a wellfield protection ordinance is adopted, the excavation may be allowed within these five year travel times if allowed by this ordinance. If a wellfield protection ordinance is not adopted within eighteen (18) months of the date of issuance of the general excavation permit, then excavation shall be allowed within the five year travel times but shall remain at least 500' from the Florida Cities Water Company's wellfield in the southeast corner of Section 35, Township 45 South, Range 26 East.

- b. A monitoring and groundwater quality protection program shall be established by the holder of the excavation/mining operations permit for the Greenmeadow Wellfield. This program shall include the following:
- 1) A berm at least one foot high shall be placed around the excavation pit so as to inhibit the direct discharge of surface water sheet flow into the excavation pit. A quarterly sampling of water within the pit for Section 17-22.310 pesticides shall be taken by the holder of the excavation permit using EPA Methods 608, 531 and 614. Monitoring results shall be submitted to the Division of Environmental Services. If monitoring results indicate the presence of such pesticides in levels which exceed DER standards, the holder of the excavation permit shall engage in such mitigation deemed necessary to abate the discharge of pesticides into the pit at levels which would pose a threat of groundwater contamination.
 - 2) Monitoring wells shall be required at the perimeter of the "Reserved Areas" which have been designated on the Master Concept Plan as possible future locations for rock processing operations, to monitor for purgeable organics using EPA Method 524. Monitoring wells shall be constructed at the time such "Reserved Areas" receive a development order or development order exemption for construction. The number of wells and their location shall be subject to the approval of the Division of Environmental Services. If monitoring results show groundwater pollution from purgeable organics in excess of DER standards, the holder of the excavation permit shall be responsible for the immediate cleanup of the site.
3. Prior to the issuance of an operation/mining permit for Phase II, these conditions shall be reviewed by DCD staff. If staff determines that new or changed circumstances on the property being mined present some new concern to the public health, safety or welfare which was not considered at the time this rezoning was approved, then staff may propose modifications to these conditions deemed necessary to protect the public health, safety and welfare. If Harper Bros., Inc., complies with such modified conditions, then an operation/mining permit shall be issued by staff in accordance with Section 517 of the Lee County Zoning Regulations. If Harper Bros., Inc., feels that such permit modifications are not justified by changed or new conditions, then Harper Bros., Inc., may appeal staff's determination directly to the Board of County Commissioners.
 4. The Division of Code Enforcement shall monitor the mine site on a random, continuing basis for compliance with the Lee County Noise Control Ordinance. Monitoring shall be conducted at the discretion of the Director of the Division of Code Enforcement. Monitoring results shall be submitted to the Director of the Department of Community Development and to Harper Brothers, Inc. If monitoring results indicate a violation of the Lee County Noise Control Ordinance by Harper Brothers, Inc., Harper Brothers, Inc. shall have fifteen days from the date of notification by the Division of Code Enforcement in which to remedy the violation to the satisfaction of the Department. Failure to remedy the violation within the allotted time shall be grounds for action by the Director of the Department of Community Development. Nothing herein shall limit the right of Harper Brothers, Inc. to conduct its own noise monitoring and submit these results to the Department Director for his consideration.
 5. Prior to approval of the excavation/mining operation permit, the developer shall meet with and provide to the Lee County Emergency Medical Service:

- a. The location of the designated emergency helicopter landing zone(s);
- b. The means of access for an Emergency Medical Services unit; and
- c. The arrangement for the provision of fire protection for this site to the satisfaction of the Department of Public Safety. This shall include the utilization of an on-site truck mounted sprayer and other preventative measures.
6. The maximum permitted depth for the excavation shall be no more than 55 feet below the existing ground elevation, or to the first confining layer, whichever occurs first.
7. The holder of the excavation/mining operation permit shall be responsible for an appropriate share of any damage to Alico Road from the pit west to I-75 caused by the truck traffic from this operation and shall repair any such damage to the satisfaction of the Lee County Department of Transportation and Engineering.
8. On-site haul roads shall be watered on a regular basis to avoid creating dust in excess of the Department of Environmental Regulation standards.
9. a. Blasting shall only occur between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday.
- b. No dewatering of the pits for excavation purposes shall be performed unless permitted by the South Florida Water Management District and expressly approved by the Board of County Commissioners at a later date. This condition shall not prohibit the use of ground water in connection with the rock crushing process if done in accordance with South Florida Water Management District rules and permits.
10. Prior to beginning the excavation, the entire site shall be fenced similar to the existing mine operation, to prevent unauthorized access onto the property. This fence shall be maintained in good condition by the holder of the general excavation permit until such time as the excavation is complete, or a change in land use is approved.
11. a) Prior to final plan approval, the proposed Master Concept Plan shall be revised to depict a boundary line for the Transition Zone area located along the eastern property boundary to be preserved.
- b) Prior to final plan approval, the proposed Master Concept Plan shall be revised to depict a fifty (50) foot setback for excavation from the Transition Zone wetland preservation area located along the eastern property boundary.
- c) Prior to issuance of an excavation/mining operation permit for any phase of mining, the developer shall submit a detailed mitigation plan for the re-creation of the proposed 34 acres of freshwater marsh. The plant coverage within the re-created area shall be a minimum of eighty (80) percent after a maximum of two (2) years upon establishment. If plant coverage is less than 80% two years after establishment, additional plantings shall be required to achieve an 80% plant coverage within the re-created area. Additional plantings, if required, shall be subject to approval by the Department of Community Development. The mitigation plan shall be subject to approval by the Department of Community Development.

- d) Prior to issuance of an excavation/mining operation permit for any phase of mining, the developer shall submit a reclamation plan which shall incorporate lake shoreline planting including, at a minimum, trees to be planted on twenty (20) foot centers, shrubs to be planted on ten (10) foot centers and ground cover to be planted on five (5) foot centers, or ground cover to be achieved by mulching. The plan shall guarantee 80% survival of planted material for a minimum of three years. If the shoreline is mulched rather than planted with groundcover, the plan shall include the provision that after two years of establishment of the lake littoral zones, if the plant coverage within the mulched areas is not a minimum of eighty percent (80%), the appropriate native species shall be planted to meet at least eighty (80) percent area coverage. The additional plantings, if necessary to meet the minimum areal coverage, shall be subject to approval by the Department of Community Development.
 - e) Prior to issuance of an excavation/mining operation permit for any phase of mining, the developer shall submit a plan for the removal of exotic vegetation throughout the wetland preserve areas. The plan shall include a timetable for removal and a maintenance program to control the re-invasion of exotic vegetation throughout the site. The control program shall be in effect for a minimum of three (3) years. The removal and control plan shall be subject to approval by the Department of Community Development.
 - f) Prior to the issuance of an excavation/mining operation permit for Phase II of excavation, the boundaries of the two wetland preservation areas located along the eastern property boundary adjacent to the excavation shall be staked, subject to approval by the Department of Community Development, to insure that the approved excavation setback is maintained from the wetland preservation areas.
 - g) Prior to issuance of an excavation/mining operation permit for Phase II of excavation, the developer shall execute a conservation easement for the retention/preserve area and the two wetland preserve areas along the eastern property boundary. The exact boundaries of the conservation area shall be determined at the time the easement is given to the County and shall reflect any changes to the "preserve-mitigation area" approved by the County to the Master Concept Plan and by the South Florida Water Management District prior to the commencement of mining in Phase II. In addition to the activities allowed under Section 704.06, the easement shall expressly allow Harper Bros., Inc., and its successors the continued right to utilize the retention/preserve area for water retention purposes in accordance with its South Florida Water Management District permits. The conservation easement shall be subject to approval by the Department of Community Development.
12. Deviation #1 is hereby APPROVED with the mitigation in condition #11. Deviations #2 and #3 are hereby APPROVED. Deviation #4 is hereby DENIED.

Site Plan 88-210 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan; and

The following findings of fact were made in conjunction with this approval of IPD zoning:

- a. The proposed uses (as conditioned) are appropriate at this subject location;

- b. Sufficient safeguards to the public's interest have been provided by the recommended conditions to the Master Concept Plan and general excavation permit and by other applicable regulations;
- c. All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development; and
- d. The deviations recommended for approval (or approval with conditions) will enhance the objective of the development and the general intent of the zoning regulations to preserve and promote 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. Manning, and seconded by Commissioner Charles L. Bigelow, Jr. and, upon being put to a vote, the result was as follows:

John E. Manning	AYE
Charles L. Bigelow, Jr.	AYE
Mary Ann Wallace	NAY
Bill Fussell	ABSENT
Donald D. Slisher	AYE

DULY PASSED AND ADOPTED this 22nd day of August, A.D., 1988.

ATTEST:
CHARLIE GREEN, CLERK

BY: Clara J. Wauk
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

[Signature]
County Attorney's Office

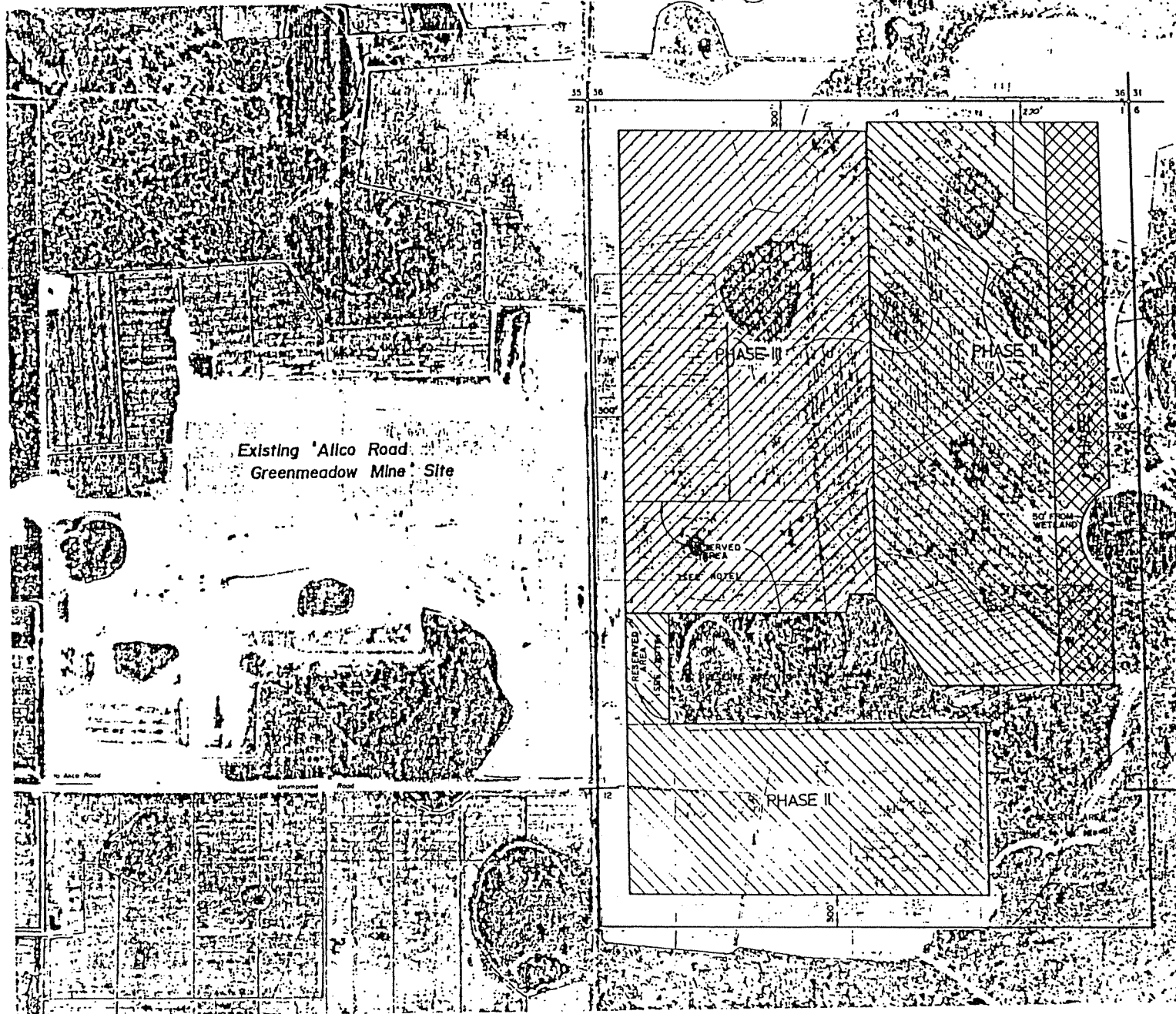
FILED

NOV 10, 1988

CLERK CIRCUIT COURT
BY C. W. [Signature] D.C.

HEARING NUMBER 88-8-5 DCI

RESOLUTION NUMBER Z-88-210
Page 6 of 6

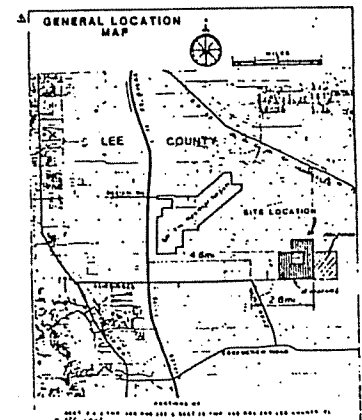


NOTE: "RESERVED AREA" MAY BE USED FOR FUTURE CRUSHING, PROCESSING, SERVICE, AND ADMINISTRATION FACILITIES, IN ADDITION TO MINING.

SETRACKS FOR ACCESSORY BUILDINGS OR STRUCTURES DIRECTLY INVOLVED IN THE PRODUCTION PROCESS SHALL NOT BE LOCATED LESS THAN SIX HUNDRED (600) FEET FROM ANY RESIDENTIALLY ZONED AREA OR DISTRICT, AND TWO HUNDRED FIFTY (250) FEET FROM ALL OTHER NON-RESIDENTIAL AREAS OR ZONING DISTRICTS. (SECTION 17.6.3.)

PRESERVE AREA (Not to be Mined)

PRESERVE AREA (Not to be Mined)



CERTIFICATION
I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT THIS MAP IS CORRECT, AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL INFORMATION REQUIRED BY THE REQUIREMENTS OF THE LEE COUNTY ZONING ORDINANCE.

ROBERT L. MARY, P.E.
7-07-88

APPROVED

Master Concept Plan

Site Plan # 88-10 Page 1 of 2

Subject to conditions in Resolution 2-88

Zoning Case # 88-8-5 DCI

RECEIVED
AUG 28 1988

MINING COUNTER

PHASE I - 1st FIVE YEARS

PHASE II - 2nd TEN YEARS

PHASE III - 3rd TEN YEARS

LEGEND

MINING - MINING (SECTION 17.6.3)
EXCAVATION - EXCAVATION (SECTION 17.6.3)
SERVICE AND ADMINISTRATION FACILITIES
AND RELATED ACCESSORY STRUCTURES

HOLE, MONTES & ASSOCIATES, INC.
CONSULTING ENGINEERS - LAND SURVEYORS

NAPLES

BONITA SPRINGS

FORT MYERS

Sections 1 & 12 Re-Zoning
Phasing Plan

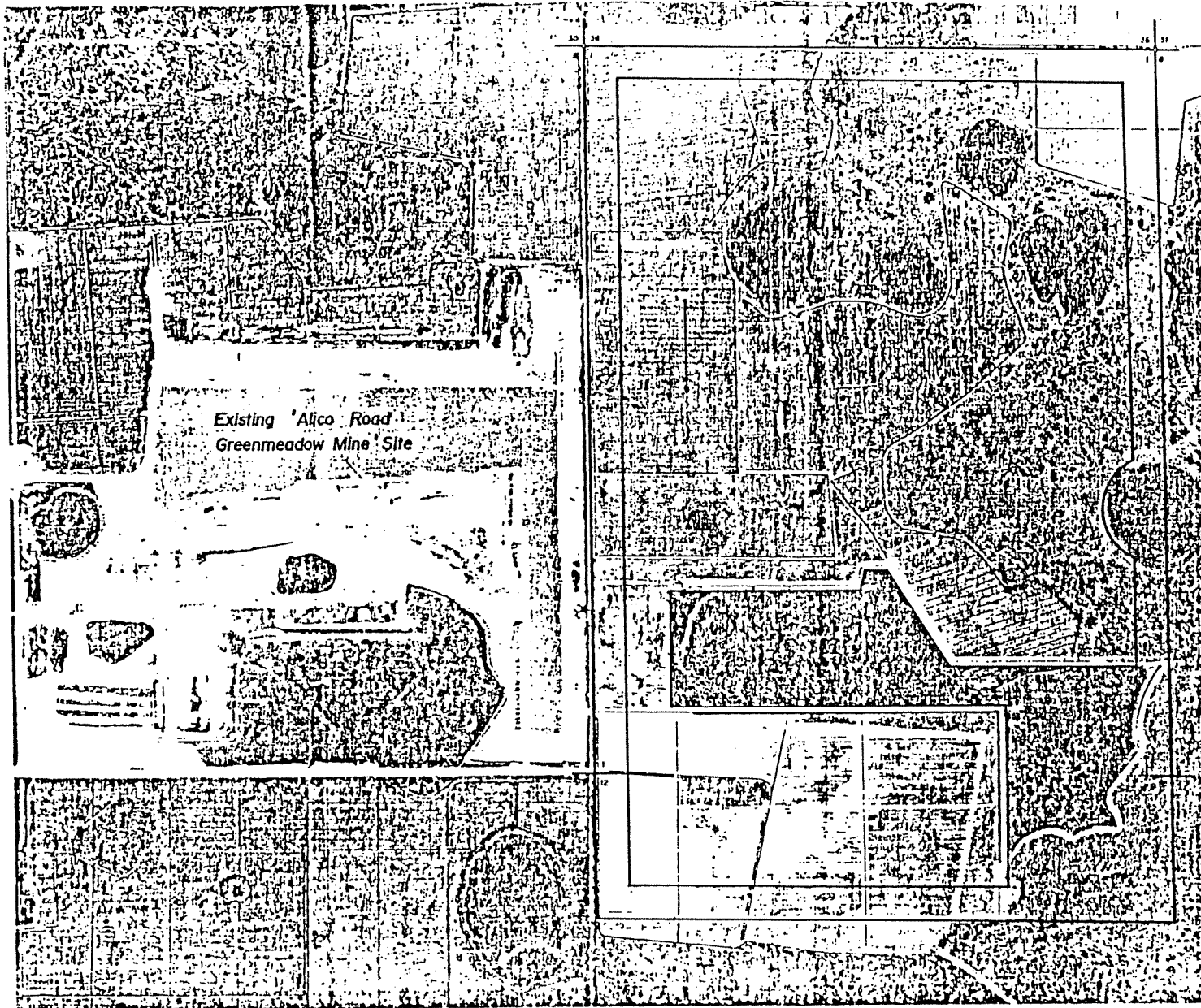
201 - B

87 66

HARPER BROS., INC.

OR2029

PC0592



NOTE: NATIVE WETLAND VEGETATION TO BE PLANTED TO
DEPTH 40' BELOW THE DRY SEASON WATER TABLE

LEGEND
1. EXISTING WETLANDS
2. EXISTING WETLANDS
3. EXISTING WETLANDS



RECLAMATION SHALL BEGIN WITHIN 6 MONTHS AFTER COMPLETION IN ANY
AREA THAT WILL NOT BE DISTURBED BY FUTURE OPERATIONS AND SHALL BE
COMPLETED WITHIN 12 MONTHS OR WHENEVER THE OPERATIONS HAVE BEEN
ABANDONED OR THE GENERAL EXCAVATION PERMIT EXPIRES, WHICHEVER
COMES FIRST.

Nov 11 12 13 11 '88

RECORDED & RECORDED VERIFIED
Charles J. Lee
Clerk Circuit Court
Lee County

APPROVED

Master Concept Plan

Site Plan # 88-10 Page 2 of 2

Subject to conditions in Resolution Z-98-10

Zoning Case # 88-1-500

MINUTE
(1/500)

PRINTED

I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT THIS MAP IS CORRECT, AND
KNOWS TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL THE MATTER
REQUIRED BY THE REQUIREMENTS OF THE LEE COUNTY ZONING ORDINANCE.

7-27-88

DATE OF PRINTING: FEB 9, 1987

HARPER BROS. INC.

HOLE, MONTES & ASSOCIATES, INC.

CONSULTING ENGINEERS - LAND SURVEYORS

TEMPLES

BONITA SPRINGS

FORT MYERS

Sections 1 & 12 Re-Zoning
Reclamation Plan

201-9

9766

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PG0593