

RESOLUTION APPROVING RECOMMENDATION OF
STATUS REPORT NO. SR 86-7.4
TO AMEND CONDITIONS OF APPROVAL OF RESOLUTION NO. R-86-573-21
WHICH APPROVED THE SPECIAL EXCEPTION OF
FEDERATED REALTY INC.
PETITION NO. 86-7

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning: and

WHEREAS, systematic monitoring and review of approved zoning actions help implement the goals and objectives of the Comprehensive Plan.

WHEREAS, the notice and hearing requirements as provided for in Section 402.9 of the Palm Beach County Zoning Code have been satisfied: and

WHEREAS, pursuant to Section 402.9, Status Report SR 86-7.4 was presented to the Board of County Commissioners of Palm Beach County at a public hearing conducted on September 24, 1992; and

WHEREAS, the Board of County Commissioners has reviewed Status Report SR 86-7.4 and considered testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies: and

WHEREAS, Section 402.9 of the Palm Beach County Zoning Code authorizes the Board of County Commissioners to add or modify conditions of approval; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations: and
2. The conditions listed below require this petition to develop more in conformity with current standards of development.

WHEREAS, Section 402.5 of the Palm Beach County Zoning Code requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the recommendation of Status Report No. SR 86-7.4, amending Conditions of Approval of Resolution No. R-86-573-21, the Special Exception of Federated Realty Inc., Petition No. 86-7, confirmed by the adoption of Resolution R-86-573-21, which granted a Special Exception to allow a Planned Commercial Development on a parcel of land being all of Tracts 9 and 10, together with a portion of Tracts 11, 22, 23 and 24, together with a portion of that certain 15 foot road Right-of-way lying Easterly of and adjacent to Tracts 9 and 24, all in Section 21, Township 46 South, Range 42 East, Palm Beach Farms Company, Plat No. 1, according to the plat thereof, as recorded in Plat Book 2, Page 26, through 28, inclusive, said parcel of land being more particularly described as follows:

Commencing at the North 1/4 corner of said Section 21: thence, bear South 01 degree 54'12" East, along the East line of Northwest 1/4 of said Section 21, a distance of 30.01 feet for a Point of Beginning:

Thence, continue South 01 degree 54'12" East along said line, a distance of 759.30 feet; Thence, South 89 degrees 18'22" West, a

distance of **989.60** feet; Thence, North **00** degree **41'38"** West, a distance of **706.39** feet to the Southerly Right-of-way line of Lake Worth Drainage District **L-34** Canal, as recorded in Deed Book **113**, Page **76**; thence, North **89** degrees **22'49"** East, along said Right-of-Way line, a distance of **297.14** feet to the intersection thereof with the West line of said Tract **10**; Thence, North **00** degree **53'48"** West, along the West line of said Tract **10**, a distance of **54.01** feet to the Northwest corner of said Tract **10**; Thence, North **89** degrees **22'49"** East, along the North line of said Tracts **9** and **10** and its Easterly prolongation, a distance of **677.56** feet to the Point of Beginning, being located on the southwest corner of the intersection of Delray West Road and Hagen Ranch Road in a **CG**-General Commercial Zoning District, is approved, subject to the following conditions:

A. ALL PETITIONS

1. The petitioner shall comply with all previous conditions of approval, including original deadlines for Zoning Code Section **402.9** compliance, unless expressly modified herein. (MONITORING)
2. Prior to site plan certification, the site plan shall be amended to indicate compliance with 'all minimum property development regulations and land development requirements of Palm Beach County. (ZONING)
3. The petitioner shall receive site plan certification for the subject property, as amended as required by the conditions of approval, on or before November **30, 1992**. (ZONING)

B. BUILDING AND SITE DESIGN

1. Any fuel or chemical storage tanks shall be installed in accordance with Chapter 17-61, Florida Administrative Code. The design and installation plans will be submitted to the Health Department for approval prior to installation. (Previously Condition No. 4, of Resolution No. **86-573-21**) (ERM/BUILDING)
2. Any toxic or hazardous waste, generated at this site, shall be properly handled and disposed of in accordance with Chapter 17-30, F.A.C. (Previously Condition No. 5, of Resolution No. **86-573-21**) (ERM/BUILDING)
3. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties. (Previously Condition No. 6, of Resolution No. **86-573-21**) (BUILDING)
4. Total gross floor area shall be limited to a maximum of **169,500** square feet. (BUILDING)
5. The maximum height, from grade to roof line, for all structures shall not exceed thirty five (**35**) feet. (BUILDING)
6. All roof structures shall be gabled or hip with mexican tile consistent with the character of adjoining residential communities as indicated in Exhibit **3**. (BUILDING)
7. Architectural character and treatment which is compatible and harmonious with abutting residential developments shall be provided on all sides of each building. (BUILDING)
8. All air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the

principle structure. (BUILDING)

9. The Site Plan Review Committee shall be limited to a maximum five (5%) per cent redesign of the site plan unless further changes are required by a governmental agency. (ZONING)
10. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. (Previously Condition No. 7, of Resolution No. 86-573-21) (ERM)

C. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall not be located within one hundred (100') feet of the west and south property lines: shall be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure. The open end of the enclosure shall have an obscuring, opaque gate. (ZONING/BUILDING)

All exterior sides of such enclosures, except the open end, shall be landscaped with thirty (30) inch high shrub and hedge material planted twenty-four (24) inches on center at installation. Alternative landscaping may be permitted which is acceptable to the Zoning Division. This provision shall not apply to litter containers provided for the convenience of pedestrians. (BUILDING/ZONING)

D. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES)

E. ENGINEERING

1. The Petitioner shall convey to the Lake Worth Drainage District the required ninety (90) foot right-of-way for Lateral Canal No. 34, as shown on the survey of the subject property, by Quit Claim Deed or an Easement Deed in the form provided by said District within ninety (90) days of adoption of the Resolution by the Board of County Commissioners. (Previously Condition No. 9, of Resolution No. 86-573-21) (MONITORING-LWDD)
2. The development shall retain on site 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division. (Previously Condition No. 10, of Resolution No. 86-573-21) (ENGINEERING)
3. The Property Owner shall construct on Atlantic Boulevard at the project's entrance road:
 - a) Left turn lane east approach
 - b) Right turn lane west approach
 - c) Left turn lane south approach

All concurrent with on site paving and drainage improvements pursuant to a Paving and Drainage Permit issued from the office of the County Engineer. (Previously Condition No. 11, of Resolution No. 86-573-21) (ENGINEERING)

4. The Property Owner shall provide Palm Beach County a road drainage easement, within the project's internal lake system, for legal positive outfall to accommodate the runoff of Atlantic Boulevard along the property frontage, and for a maximum 400 feet distance on each side of the property boundary lines along Atlantic Boulevard. The drainage system within the project shall have sufficient retention/detention capacity to accommodate the road drainage runoff for the ultimate Thoroughfare Place Section, and be subject to all governmental agency requirements. (Previously Condition No. 12, of Resolution No. 86-573-21) (ENGINEERING)
5. The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$162,990.00. (Previously Condition No. 13, of Resolution No. 86-573-21) (ENGINEERING)
6. Based on the Traffic Performance Standards (Category "A"), the Developer shall contribute \$81,495.00 toward Palm Beach County's Existing Roadway Improvement Program. The monies shall then be used to accelerate the acquisition of the additional right-of-way for Military Trail from Stiener Road to the present 4-lane terminus of Military Trail North Atlantic Boulevard. These monies shall be paid as follows:
 - a) Total \$244,485.00 of which \$18,000.00 shall be paid within ninety (90) days of the Resolution adoption by the Board of County Commissioners.
 - b) The balance \$226,485.00 shall be presented to Palm Beach County in Performance Security, acceptable to the County Attorney's office within ninety (90) days after adoption of the Resolution by the Board of County Commissioners.

Palm Beach County may begin to draw upon these funds after fifteen (15) months of adoption of the Resolution by the Board of County Commissioners.

If the Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee, this additional amount of \$81,495.00 shall be credited toward any increased Fair Share Fee. (Previously Condition No. 14, of Resolution No. 86-573-21) (MONITORING)
7. The Property Owner shall obtain an On site Drainage Permit from the Palm Beach County Engineering Department, Permit Section, prior to the issuance of a Building Permit. (Previously Condition No. 15, of Resolution No. 86-573-21) (BUILDING-Engineering)
8. The Property Owner shall obtain a Turnout Permit from the Florida Department of Transportation for access onto Atlantic Boulevard. (Previously Condition No. 15, of Resolution No. 86-573-21) (ENGINEERING)
9. The Property Owner shall install signalization, if warranted as determined by the County Engineer, at Atlantic Boulevard and the project's entrance road. Should signalization not be warranted after twelve (12)

months of the final Certificate of Occupancy, the Property Owner shall be relieved from this condition. (Previously Condition No. 17, of Resolution No. 86-573-21) (ENGINEERING)

F. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval. (ZONING)
2. All required trees in landscape buffer strips shall meet the following minimum standards:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (ZONING)
3. All exterior sides of all enclosures surrounding loading areas, except the open end, shall be landscaped with thirty (30) inch high shrub and hedge material planted twenty-four (24) inches on center at installation. Alternative landscaping may be permitted which is acceptable to the Zoning Division. (BUILDING-Zoning)
4. Condition No. 18, of Resolution No. 86-573-21, which currently states:

Landscaping shall be installed as presented on Exhibit No. 3, prior to Certificate of Occupancy.

Is hereby amended to state:

Petitioner shall submit a detail landscape plan consistent with the conditions of approval and Section 7.3 of the Unified Land Development Code prior to obtaining the first building permit. Landscaping shall be installed according to the approved landscape plan prior to issuance of the first certificate of occupancy. (BUILDING-Zoning)

G. LANDSCAPING - INTERIOR

1. One landscape island shall be provided **for every ten (10)** parking spaces. The maximum spacing between landscape islands shall not exceed one hundred twenty (100) linear feet. One native canopy tree or three native palm trees and appropriate ground cover shall be planted in each landscape island. (ZONING)
2. Landscaped divider medians shall be provided between all abutting rows of parking spaces. The minimum width of this median shall be ten (10) feet. One native canopy tree or two native palm trees and appropriate ground cover shall be planted for each thirty (30) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center. (ZONING)
3. Prior to site plan certification, the site plan shall be amended to indicate typical landscape island and divider median planting details, subject to approval by the

Zoning Division. (ZONING)

- H. LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING RIGHT-OF-WAY)
1. Landscaping within the required buffer along Atlantic Avenue shall be upgraded to include:
 - a. One (1) native canopy tree planted every twenty (20) feet on center.
 - b. Three (3) native palm trees for each thirty (30) linear feet of frontage.
 - c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (ZONING)
 2. Property Owner shall landscape and maintain the lake banks of the L-34 canal subject to approval from the LWDD. (ZONING)
- I. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING GOLF COURSE)
1. Landscaping within the required buffer along the east property line shall be upgraded to include:
 - a. One (1) native canopy tree planted every twenty (20) feet on center.
 - b. Three (3) native palm trees for each thirty (30) linear feet of frontage.
 - c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (ZONING)
- J. LANDSCAPING ALONG THE SOUTH AND WEST PROPERTY LINE (ABUTTING RESIDENTIAL)
1. Landscaping and buffering along the south and west property line shall be upgraded to include:
 - a. A minimum ten (10) foot wide landscape buffer strip.
 - b. A six (6) foot high opaque concrete wall, installed/constructed a minimum of six (6) foot from property line. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (ZONING)
 2. The following landscaping requirements shall be installed on the exterior side of the required wall:
 - a. One (1) native canopy tree planted every twenty (20) feet on center.
 - b. Thirty six (36) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of sixty (60) inches. (ZONING)
 3. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high **shrub** or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (ZONING)

K. LANDSCAPE WITHIN MEDIAN

1. Prior to site plan certification, the petitioner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist of a minimum of one (1) fourteen (14) foot tall native tree for each thirty' (30) linear feet of the adjacent median to be planted and appropriate ground cover. Trees may be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected for the following list:

Trees:

Laurel Oak
Live Oak
Slash Pine
Sabal Palmetto

Groundcover:

Wedilia
Bahia Grass

Alternative species may be allowed subject to approval by the County Engineer. All plant material shall be installed and selected according to xeriscape principles and shall conform with the following:

- a) All plants shall be container grown or field collected and transplanted from the project site.
 - b) All plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with Site Plan certification. (ZONING-Engineering)
2. All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees, or duly established Property Owner's Association and/or Homeowner's Association, and shall be installed on or before issuance of the first Certificate of Occupancy or filing of the first plat, whichever occurs first. (BUILDING-Zoning)
 3. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to receiving the first building permit or filing of the first plat, whichever occurs first, to reflect this obligation. Maintenance shall be in accordance with the issued permits. (BUILDING/ENGINEERING-County Attorney)
 4. Petitioner may contribute to the West Atlantic Avenue Beautification fund a sum equal to the required expenditure to landscape the abutting medians. (ENGINEERING)

L. LIGHTING

1. Condition No. 3, of Resolution No. 86-573-21, which currently states:

Security lighting shall be directed away from nearby residences.

Security lighting shall be directed away from nearby residences. All lighting shall comply with the following requirements:

- a. All outdoor lighting used to illuminate

the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CODE ENFORCEMENT)

- b. All lighting fixtures shall not exceed twenty (20) feet in height. (BUILDING)
- c. All outdoor lighting, except those pertaining to permitted restaurant uses, shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (CODE ENFORCEMENT)

M. PARKING

- 1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan. (CODE ENFORCEMENT)
- 2. Condition No. 1, of Resolution No. 86-573-21, which currently states:

Loading areas located within 100 feet to any residential areas shall be enclosed with a ten (10) foot high wing wall consistent with color and character of the principal building.

Is hereby amended to state:

All delivery and/or loading areas shall be screened from view by a twelve (12) foot high wing wall consistent with the color and character of the principle structure. The open end of the enclosure shall have an obscuring, opaque gate. (BUILDING)

N. RECYCLE OIL

- 1. **The Property Owner of the facility will participate in an oil recycling program, which insures proper reuse or disposal of waste oil.** (Previously Condition No. 8, of Resolution No. 86-573-21) (EMS)

O. RECYCLE SOLID WASTE

- 1. All property owners and lessee's shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA)

P. SIGNS

- 1. Signs fronting on Atlantic Avenue shall be limited as follows:
 - a. Maximum sign height, measured from finished grade - ten (10) feet:
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - one (1). (BUILDING)
- 2. All on site signs shall comply with the Palm Beach County Sign Code and shall indicate principal uses only. No snipe signs, balloons, banners or other prohibited types of advertisement or signs shall be permitted on-site. (ZONING)
- 3. Prior to site plan certification, the petitioner shall

submit a Master Sign Program to the Zoning Division which specifies sign location, sign dimensions, unified color, unified graphics, typical base planting details, and conformance to all sign related conditions of approval.
(ZONING)

4. No signs shall encroach into the perimeter landscape buffers or vegetation preservation areas.
(BUILDING/Zoning-ERM)

Q. USE LIMITATION

1. Use of the site shall be limited to those uses and their respective square footage as indicated on the **approve** site plan. (BUILDING)
2. No outdoor loudspeaker system audible off site shall be permitted. (CODE ENFORCEMENT)
3. No retail business activities shall be allowed on the site, including deliveries, prior to **6:00** a.m. nor continue later than 11:00 p.m. (CODE ENFORCEMENT)
4. Condition No. **2**, of Resolution No. **86-573-21**, which currently states:

No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted behind any structure.

Is hereby amended to state:

No storage or placement of any material, refuse, equipment or debris shall be permitted in the rear of the facility. (CODE ENFORCEMENT)

5. **No** drive through, drive in or curb service restaurant shall be permitted. (ZONING/BUILDING)
6. No restaurants shall be permitted on the southwest quarter of the Property. (ZONING/BUILDING)
7. Dumpster locations shall be a minimum of twenty five (25) feet from any property line. (ZONING/BUILDING)

R. COMPLIANCE

1. **As** provided in Section **5.8** of the Unified Land Development Code, failure to comply with any of these conditions of approval at any time may result in **one** or more **of** the following:
 - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension **of** any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user **of** the subject property;
 - b. The revocation of any special exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom;
 - c. Rezoning of the property;
 - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;

- e. Citation of the property owner for violation of the Zoning Code. (MONITORING)
- 2. Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of special exception, rezoning, or other actions based on a Board of County Commissioners decision, shall be by petitioner for writ of certiorari to the Fifteenth Judicial Circuit.
- 4. No administrative extensions to this petition shall be granted. (MONITORING)

Commissioner Aaronson moved for approval of the Resolution.

The motion was seconded by Commissioner Foster and, upon being put to a vote, the vote was as follows:

MARY MCCARTY, CHAIR	--	Aye
BURT AARONSON	--	Aye
KEN FOSTER	--	Aye
MAUDE FORD LEE	--	Aye
KAREN T. MARCUS	--	Aye
WARREN H. NEWELL	--	Aye
CAROL ROBERTS	--	Aye

The Chair thereupon declared the resolution was duly passed and adopted this 77th day of May, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:

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BY:

[Handwritten signature]

