

## Nur UI Islam Height Variance Justification

On behalf of Nur-UI-Islam of South Florida, Inc. ("Applicant"), please accept this request for consideration of the proposed height variances involving the property located at 10600 SW 59th Street in Cooper City ("City"), identified by the Broward County Property Appraiser folio number 504131210010 ("Property"). The Property consists of 4.2 acres and has an I-1 Broward County Institutional zoning designation and an Estate Land Use Plan designation.

### **I. Property Description & Proposed Development**

The Property is adjacent to agricultural zoning districts to the north and to the west, a Broward County Community Facilities district to the south, and a X-1 and PRD districts to the east. It is important to note that the property immediately north of the Property is the New Apostolic Church of Davie (the "Church"), while the property south and east of the Property is the Chabad of Southwest Broward (the "Chabad"). The Church, Chabad, and the Applicant have all peacefully coexisted for the past twenty years and continue to provide services as necessary to the other houses of worship.

The Property currently consists of a mosque, primary school, school library, cafeteria, kitchen, and administrative building. The Applicant hopes to expand the size of both the mosque and school with the construction of a new mosque and new school building (respectively, "New Mosque Building" and "New School Building"). As part of the New Mosque Building, the Applicant hopes to construct a 25 foot mosque building, along with one 100 foot minaret, two 70 foot minarets, and one 51 foot dome as part of the façade of the New Mosque Building.

Minarets and domes are both important design elements of a mosque and are often the elements that differentiate a mosque from other houses of worship. The minaret itself is a slender and tall spire that is placed at various points on a mosque building and historically is used in the Islamic faith as an announcement point for calls to prayer. The proposed minarets are structurally not accessible to occupants of the building; they will not be used for calls to prayer and are instead going to function as a symbolic element of the building. Minarets are often thought of as landmarks of Islam and are meant to be visible and pronounced. Additionally, most mosques also feature one or more domes. A dome possess significance within the mosque as a symbolic representation of the vault of heaven. Like the minaret, the proposed dome is structurally not accessible to occupants of the building and functions solely as a symbolic element of the building. Minarets and domes are featured on mosques all over the world and date back to the 700s (see **Exhibit "A"** for various depictions of minarets and domes throughout the world).

Section 39-367 of the Broward County Code ("County Code") regarding height requirements in I-1 zoning districts provides that no building or structure located within two hundred (200) feet of any plot zoned for detached one-family dwellings, two-family dwellings, or townhouses shall be erected or altered to a height exceeding two stories, with stories being defined as 10 feet per story, with the caveat that pursuant to County Code Section 39-103, towers, domes, or other roof structure used only for ornamental or mechanical purposes may exceed the permissible height limit by 25%. The Property is located within 200 feet of the property to the east zoned PRD. Because of its importance to the New Mosque Building, and to the Islamic faith broadly, the Applicant is requesting a variance from Section 39-367 of the County Code as it pertains to height requirements for I-1 zoning districts relative to the mosque building, dome and minarets; the New Mosque Building otherwise complies with the height requirements.

## II. Variance Justification Statement

A variance application shall be reviewed in accordance with the following criteria:

- a) ***Special and unique conditions exist which are peculiar to the petitioner's case and which are not generally applicable to other property located in the zoning district.***

Special and unique conditions exist with regard to the New Mosque Building, as the subject of this request is for the dome and minarets to be built. Furthermore, the Applicant is the only mosque in the City, lending to the notion that this particular instance is not applicable to any other property located in the zoning district. The nearest houses of worship to the Applicant's are the Church and the Chabad, both of which are traditionally not designed with domes or minarets.

As mentioned previously, both the minarets and dome are important features of Islamic architecture. In fact, the minaret is often thought of as the defining element of a mosque. Given the proximity of the New Mosque Building to other houses of worship in the area, the Applicant hopes to include the dome and minarets for differentiation between the other houses of worship. Just as churches often feature a cross at the top of their roofs, the minaret and dome are meant to serve the same function - it is meant to be a symbol to all, and a beacon for those who practice the faith. Given the importance of the minaret and dome to the New Mosque Building and the Muslim community that attends this mosque, it is the Applicant's hope that the variances will be granted.

Further of note, a height variance to allow for a 100 ft. minaret was previously approved by Broward County Board of Adjustment in 2000; in the approval, the Broward County Board of Adjustment specifically found that "[t]here are unique and special circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district." A copy of this 2000 approval is attached hereto as **Exhibit "B."**

As it relates to the mosque building itself, special and unique conditions exist because the building is uniquely subject to the 2001 version of the Broward County Code of Ordinances, which restrict the building height to only two stories, *i.e.*, 20 feet. Under the current County Code, the building would be restricted to a height of 35 feet, which the mosque building complies with. Additionally, the 20 foot building height limitation is an outdated standard for building development. Additionally, the 10 feet per story limitation is not sufficient for a place of worship, which requires a higher ceiling. The typical area required for structural joists and mechanical space above the ceiling for a similar building is approximately 30" to 36" – this would limit the ceiling height to approximately 7' to 7'-6". The two-story standard (*i.e.*, 20 feet) is simply not sufficient to support the underlying place of worship which requires a higher ceiling. Moreover, the two-story restriction is applicable because the Property is located within 200 feet of the vacant property alongside Stirling Road to the east zoned PRD; if the Property was more than 200 feet from the property zoned PRD, the height limitation under the prior County Code would be four-stories (*i.e.*, 40 feet) and no variance would be required for the New Mosque Building. Special and unique conditions exist because there is only one corner of the building that is within 200 feet of the area zoned PRD. Specifically, this one portion of the building is 193' feet from the area zoned PRD, just 7' shy of qualifying for a 40 foot building height.

- b) ***The special and unique conditions are not directly attributable to the actions of the petitioner.***

The special and unique conditions are not directly attributable to the actions of the Applicant. As exemplified in the photographs shown in Exhibit "A", minarets are tall and narrow structures. Given the New Mosque Building's height of 25 feet, a minaret height of 70 feet and 100 feet, respectively, will ensure that the structures serve their purpose as a minaret. Should the structures be shortened,

the minarets will not be the defining element it is meant to be. Similarly, domes traditionally extend beyond the height of the mosque (see Exhibit "A"). Minarets and domes have been constructed as a height element on mosques for thousands of years and in thousands of cities —the Applicant is simply adhering to this storied tradition. Last, the imposition of the 2 story height limitation for the mosque building itself arose from the Property's annexation into the City. In its voluntary annexation petition the mosque included a letter that stated that "as stated above, we would like Cooper City's assurance that we need not harbor any fears about annexation and about any negative impact on our plans. The attached agreement to be "voluntarily" annexed is subject to such assurance" (see **Exhibit "C"** for a copy of the annexation petition and **Exhibit "D"** for the associated letter regarding the annexation).

**c) *The literal interpretation of the zoning code, as applied to the petitioner, would deprive the petitioner of rights commonly enjoyed by the owners of other property in the zoning district.***

The literal interpretation of the zoning code, as applied to the Applicant, would deprive the Applicant of rights commonly enjoyed by the owners of other property in the zoning district. Directly north of the Property stands the Church. Directly south and east of the Property stands the Chabad. The Church features a prominent cross on the side of its building. The Chabad features a prominent menorah year-round at the front of its property. The Applicant hopes to join the other nearby houses of worship in being able to construct a structure that has religious significance for the Muslim community. Without this variance, the Applicant would be deprived of the opportunity to build integral features of their New Mosque Building. Additionally, the City's zoning code does not include towers or domes in its height calculations; thus, the minarets and dome comply with the height requirements under the City's zoning code, and denial of the variance would deprive the Applicant of rights commonly enjoyed by the owners of other property in the City. Similarly, under the current version of the applicable County code, the mosque building itself would be compliant with the height standards. Further, noted above, the two-story height limitation is simply an unworkable standard, and would deprive Applicant of rights commonly enjoyed by owners of other property in the zoning district to have a building with a usable interior space.

**d) *The variance granted is the minimum variance necessary for the petitioner to make reasonable use of the property.***

Minarets have functioned as tall and narrow structures for centuries. The 100 foot minaret, and 70 foot minarets, respectively, that are being requested by the Applicant are the minimum variance necessary for the Applicant to ensure that the minarets are visible and proportional with the other dimensions of the New Mosque Building. The purpose of the minaret is to ensure a reasonable amount of visibility to passersby and to serve as a beacon for the Islamic faith. In order for the minarets to operate in this manner, the minarets should be at least 100 feet and 70 feet, respectively, when considering the New Mosque Building as a whole. Similarly, mosque domes must be prominent and visible to passersby. Thus, in order to ensure that the dome is visible and proportional to the other dimensions of the New Mosque Building, the dome should be at least 51 feet. Further, the mosque building's proposed height of 25 feet is necessary to ensure that the interior space of the mosque is comfortable and usable. The Applicant requests relief from Section 39-367 as the minimum variance necessary to alleviate undue hardship as they proceed with the construction of the New Mosque Building.

**e) *Granting the variance is not detrimental to the public welfare, or injurious to property or improvements in the zoning district or neighborhood involved.***

Granting this variance is not detrimental to the public welfare, or injurious to property or improvements in the zoning district or neighborhood involved; in fact, the opposite is true. Allowing the Applicant to construct the mosque with the dome and minarets on their New Mosque Building sends

a clear signal to not only residents of the City, but residents of the South Florida community broadly, that the City is open and accepting of all faiths and all people.

The construction of the mosque and dome and minarets on the New Mosque Building serves to improve the City broadly. The dome and minarets' construction will further establish the Applicant's Property as a mosque and will allow for more persons to stop in and ask questions about the New Mosque Building and Islam generally. As recently as 2015, the Property was subjected to harmful threats that were born out of ignorance of the Islamic faith and what its teachings entail. The Applicant is committed to encouraging more outreach to non-Muslims in the South Florida community and hopes that the dome and minarets will become a way for more non-Muslims to reach out to the Applicant to learn more about the Islamic faith. In this way, it is clear that the variances are certainly not detrimental to the public welfare or to the property in the neighborhood. The construction of the mosque, dome and minarets will only serve to educate the community and make for further interfaith harmony.

**f) *Granting the variance is not contrary to the objectives of the Comprehensive Plan as adopted April 6, 1989 by the Cooper City Commission.***

Granting the variances are not contrary to the objectives of the City's Comprehensive Plan (the "Comprehensive Plan") as adopted by the City's Commission. The Comprehensive Plan references religious institutions in both their Institutional and Community Facilities districts. Section II(D)3. of the Comprehensive Plan establishes that "[i]nstitutional uses include public and private educational institutions, religious institutions, community facilities and planned municipal/community centers... Lands designated community facilities were planned and are distributed throughout the community, assuring adequate acreage for future school demands and the location of public service facilities." With regard to the Comprehensive Plan's reference to religious institutions as part of the Community Facilities Category, Section III(D)3. states the following: "Religious institutions are also permitted in the Community Facilities Category. The number of religious institutions in the City has increased significantly in recent years. The City recognizes the significant social contributions that religious institutions make to the community." Further, the variances are in accord with the following provisions of the Comprehensive Plan:

- Goal: Growth and development in Cooper City shall be planned to achieve a quality community which is sensitive to the uniqueness of Southwest Broward County's environment and also provides for the fullest needs of its residents.

*Through New Mosque Building, the needs of the community would be fulfilled by providing an expanded mosque, which will accommodate the needs of City residents to practice their faith.*

- **Objective 1.13**  
Encourage compact development which includes a mixture of community-serving uses such as commercial, office, employment, civic, and institutional, recreation and open space and residential, characterized by an efficient infrastructure, close-knit neighborhoods and sense of community, preservation of natural systems, promotion of pedestrian circulation and convenient access to mass transit facilities through the establishment of a Local Activity Center land use category.


*The use of the property already encourages compact development by including a mixture of community-serving uses, such as a school, place of worship, library, and place for the community to gather and congregate. The New Mosque Building would expand upon those pre-existing uses, thus strengthening the sense of a close-knit neighborhood and community.*

The Applicant's request for the mosque with the dome and minarets as a part of their New Mosque Building is not contrary to the objectives set forth in the City's Comprehensive Plan, as cited

above. The Property currently adheres with the goals and objectives of the Comprehensive Plan, and the construction of the mosque, dome and minarets will continue the Applicant's adherence to the Comprehensive Plan. The Applicant's request is compatible with the objectives of the Comprehensive Plan and the City's criteria for granting variances.

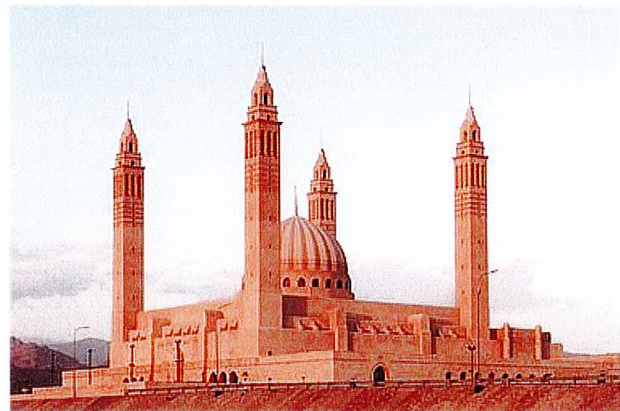
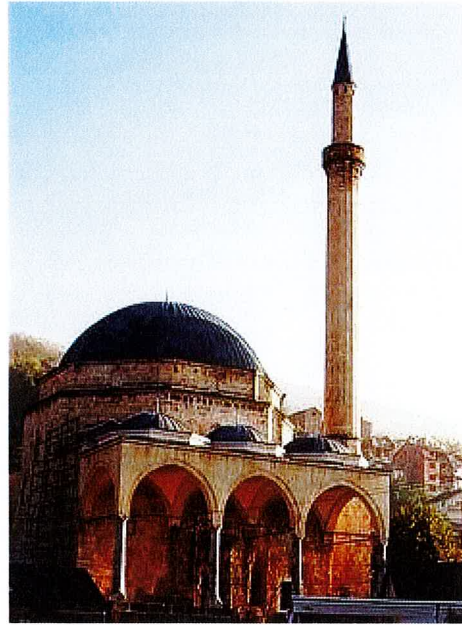
Very truly yours,

GREENSPOON MARDER LLP

/s/ 

Elizabeth Somerstein Adler, Esq.  
For the Firm

Exhibit "A"



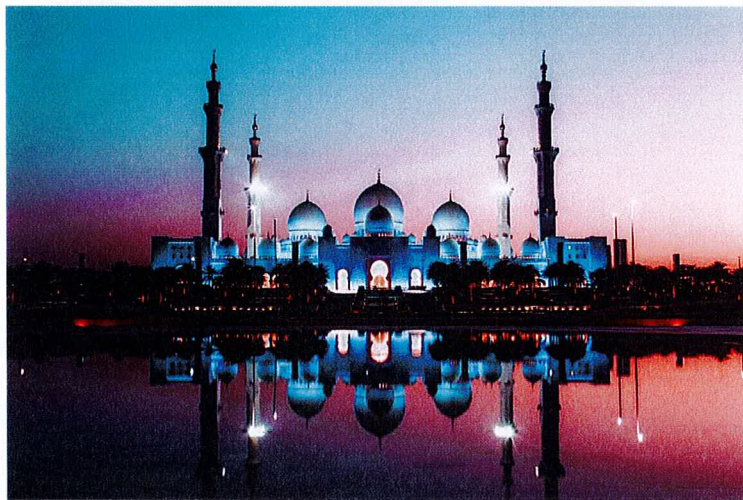






Exhibit "C"



CITY OF COOPER CITY

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APR 08 2015

Exhibit B

Growth Management Department 5090 Southwest 50 Place  
Post Office Box 290910  
Cooper City, Florida 32137-0910

PETITION FOR VOLUNTARY ANNEXATION

FILE COPY

TO: The Honorable Suellen H. Fardelmann, Mayor  
Members of the Cooper City Commission:  
City Clerk

The undersigned, Nuv UL Islam of South FL Inc ("Owner"), hereby voluntarily petitions the City Commission of Cooper City, Florida ("Commission"), pursuant to Section 171.044, Florida Statutes, to annex its property, presently located in unincorporated Broward County, Florida, as legally described in Exhibit A annexed hereto and made a part hereof ("Property"), into Cooper City ("City"), and in support thereof hereby attests that the following is true and correct:

1. That the Property complies with the requirements of Sections 171.044(1) and (5), Florida Statutes, in that it is reasonably compact, contiguous to the City and its annexation will not result in the creation of enclaves.
2. That the attached hereto and made a part hereof as Exhibit B are the following documents:
  - a. Proof of ownership by title opinion or by recorded deed.
  - b. Verification of present zoning by a Broward County zoning official.
  - c. Verification of present future Land Use Plan designation by a Broward County planning official.
  - d. Sealed survey or map showing any easements, public dedications and total square footage of the Property.

3. ~~That the Property is presently vacant and undeveloped.~~  
 2. See letter to Mr Mike Woodley dated October 21, 1999 attached  
 Dated this 21st day of October, A.D. 1999.

Submitted by:

By: Muhammad Babak  
President  
Nuv UL Islam of South FL Inc

STATE OF FLORIDA  
COUNTY OF Miami Dade

I, the undersigned authority, hereby certify that the foregoing is a true and correct copy of PETITION FOR VOLUNTARY ANNEXATION as the original of such instrument. WITNESS my hand and official seal, this 21 day of October, A.D. 1999.

Sylvia M. Gerna Rejojo  
Notary Public  
State of Florida

My Commission Expires

OFFICIAL NOTARY SEAL  
SYLVIA M GERNA REJOJO  
NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION NO. CC572422  
MY COMMISSION EXPIRES JULY 25 2009

Exhibit "D"



**Nur-Ul Islam of South Florida, Inc.**

October 21, 1999

Mr Mike Woolsey  
Director of Planning & Growth Management  
Cooper City  
PO Box 290910  
9090 Southwest 50 Place  
Cooper City, FL 33329-5099

Dear Mr Woolsey,

**RE : 1999-2000 ANNEXATION CYCLE : NUR-UL-ISLAM**

I refer to our various discussions and correspondences pertaining to the above subject.

As we have conveyed to you on all occasions we will cooperate in every way to ensure a smooth transition in the annexation process. We understood from you that we have little choice in the matter of annexation since it is compulsory and will become effective on October 1, 2000.

At meetings earlier this year that our representatives Yussuf Mohamed, Troy Mohammed and Marwan Mufleh had with you and with Mr Haughney, we conveyed our concerns about the uncertainty of Cooper City's position following annexation as these relate to approvals, agreements and past and present understandings that we have with Broward County, with whom we have had an excellent relationship over the years.

Our organization, having painstakingly negotiated with Broward County for more than 10 years, expending substantial time and expenses to put in place a site development program to meet our present and long term needs, would like to be assured that annexation would in no way jeopardize our plans.

Broward County  
Approved the height  
variance in  
Sept. of 2000

As you know, our site (I-zoning) has been approved for the construction of 36,000 sq ft of buildings to accommodate a full-time school (elementary, middle & high), a mosque/hall facility and the existing building. Also, Broward County permitted us, at a formal public hearing, to utilize the property at the corner of SW 59 St and 106 Avenue (north of SW 59 St) for parking space to support our present and future needs. These are the sorts of issues we would very much like to address before annexation takes effect and we seek your assistance in this regard.

100-ft tall minaret is not included in this description

As stated above, we would like Cooper City's assurance that we need not harbor any fears about annexation and about any negative impact on our plans.

The attached agreement to be "voluntarily" annexed is subject to such assurance.

We look forward to meeting with you and with others in Cooper City and to work with you to ensure that our contribution to the development of the city makes it a better place for all of us who reside or work therein.

Thank you

yours sincerely,

ALLAN BAKSH - President

Exhibit "B"

RESOLUTION # 00-ZV-048

*KAM 11 C*

A RESOLUTION AND FINAL ORDER OF THE BOARD OF ADJUSTMENT OF BROWARD COUNTY, FLORIDA, GRANTING A VARIANCE FROM THE PROVISIONS OF THE BROWARD COUNTY ZONING CODE.

**FILE COPY RECEIVED**

APR 08 2015

WHEREAS, the Board of Adjustment of Broward County, Florida, (BOARD) having heard Nur-Ul-Islam's (PETITIONER) argument in support of, and testimony from staff of the Broward County Code and Zoning Enforcement Division and from other interested parties, if any, in relation to a petition for variance from the Broward County Zoning Code at a public hearing held on September 7, 2000; and

WHEREAS, the BOARD having considered the PETITIONER'S request and evidence submitted, criteria set forth in Section 39-40 of the Broward County Zoning Code, the recommendations of County staff, comments from other Broward County Departments, Divisions and other Agencies and other interested parties, upon motion duly made and acted upon, has determined to grant the variance set forth in Section 1 of this Resolution subject to such terms and conditions as may be set forth in Section 4 of this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF BROWARD COUNTY, FLORIDA

Section 1. The following variance from the provisions of the Broward County Zoning Code, specified as follows:

**Code Section(s): 39-367(a) Height**

is hereby granted, subject to any terms and conditions set forth in Section 4 of this Resolution. The variance is as follows:

To allow a proposed expansion of a place of worship to have a height of 28 feet for a school building, 30 feet for a cafeteria, 35 feet for a mosque, and 100 feet for a tower, instead of the maximum allowable height of 20 feet.

Section 2. This variance relates to the real property described as follows:

**Tax Folio # 0131-21-001**

having a street address of: 10600 SW 59 Street, Ft. Lauderdale, Florida

**RESOLUTION # 00-ZV-048**

**Section 3.** In granting this variance the BOARD specifically finds that:

a. There are unique and special circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district;

**Section 4.** Based on the findings of the BOARD specified above, it shall be the final order of the BOARD that the variance specified above shall be GRANTED. The following special conditions or restrictions shall be considered an integral part of the variance, and shall be covenants running with the herein described real property, unless otherwise specified herein; and a default of said special conditions by the PETITIONER and/or the owner of the property, their respective heirs, successors, assigns, tenants, agents, lessees, or any person acting thereunder shall constitute a violation of the Broward County Zoning Code and of this Resolution.

Said special conditions or restrictions are as follows, to wit:

**NONE**

**Section 5.** This Resolution and Final Order is effective on the date signed by the Broward County Board of Adjustment. This Resolution shall not be recorded and the variance granted herein shall lapse and be of no further force or effect unless this resolution is countersigned by the Broward County Zoning Official, which shall constitute verification that all terms, conditions, safeguards and time limits of the approval granted hereunder, pursuant to Section 39-43, "Time Limits," of the Broward County Zoning Code, and pursuant to any and all special conditions or restrictions imposed by the BOARD, have been satisfied.

DONE AND ORDERED this 6<sup>th</sup> day of Sept, 2000.

BROWARD COUNTY BOARD OF ADJUSTMENT

By: [Signature], Vice Chair  
Michael Ahearn

This is to certify that this Resolution and Final Order has been filed by the undersigned for the record, and a copy provided to the PETITIONER and/or authorized agent at 10600 SW 59 Street, Ft. Lauderdale, FL 33311, and 710 E. Hillsboro Blvd., #101, Deerfield Beach, FL 33441, this 15 day of Sept, 2000.

BROWARD COUNTY ZONING CODE SERVICES

By: [Signature], Board Secretary  
Nadine A. Dalrio