

RESOLUTION NO. R-99- 669

RESOLUTION APPROVING ZONING PETITION CA98-063
CLASS A CONDITIONAL USE
PETITION OF ST. NICHOLAS MELKITE MISSION
BY KEVIN MCGINLEY, AGENT
(ST. NICHOLAS MELKITE MISSION)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, 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, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA98-063 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 1999; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

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

1. This Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article II, Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition CA98-063, the petition of St. Nicholas Melkite Mission, by Kevin McGinley, agent, for a Class A Conditional Use (CA) to allow a church or place of worship, general daycare, and Type 3 congregate living facility in the Residential Medium Density (RM) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on April 22, 1999, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Maude Ford Lee, Chair	—	Absent
Warren Newell, Vice Chair	—	Aye
Karen T. Marcus		Aye
Carol A. Roberts		Aye
Mary McCarty	—	Aye
Burt Aaronson		Absent
Tony Masilotti		Absent

The Chair thereupon declared that the resolution was duly passed and adopted on April 22, 1999.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

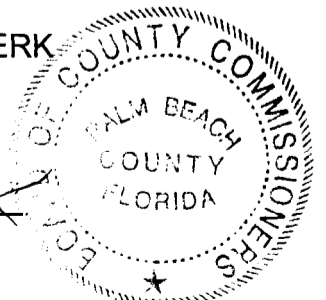


EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

THE SOUTH 235 FEET OF THE WEST 215 FEET OF THE WEST HALF (W 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE SOUTH 80 FEET FOR ROAD RIGHT-OF-WAY.

PARCEL 2:

THE WEST HALF (W 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, LESS THE SOUTH 235 FEET OF THE WEST 215 FEET THEREOF, PALM BEACH COUNTY, FLORIDA, LESS THE SOUTH 80 FEET FOR ROAD RIGHT-OF-WAY.

CONTAINING 4.56 ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

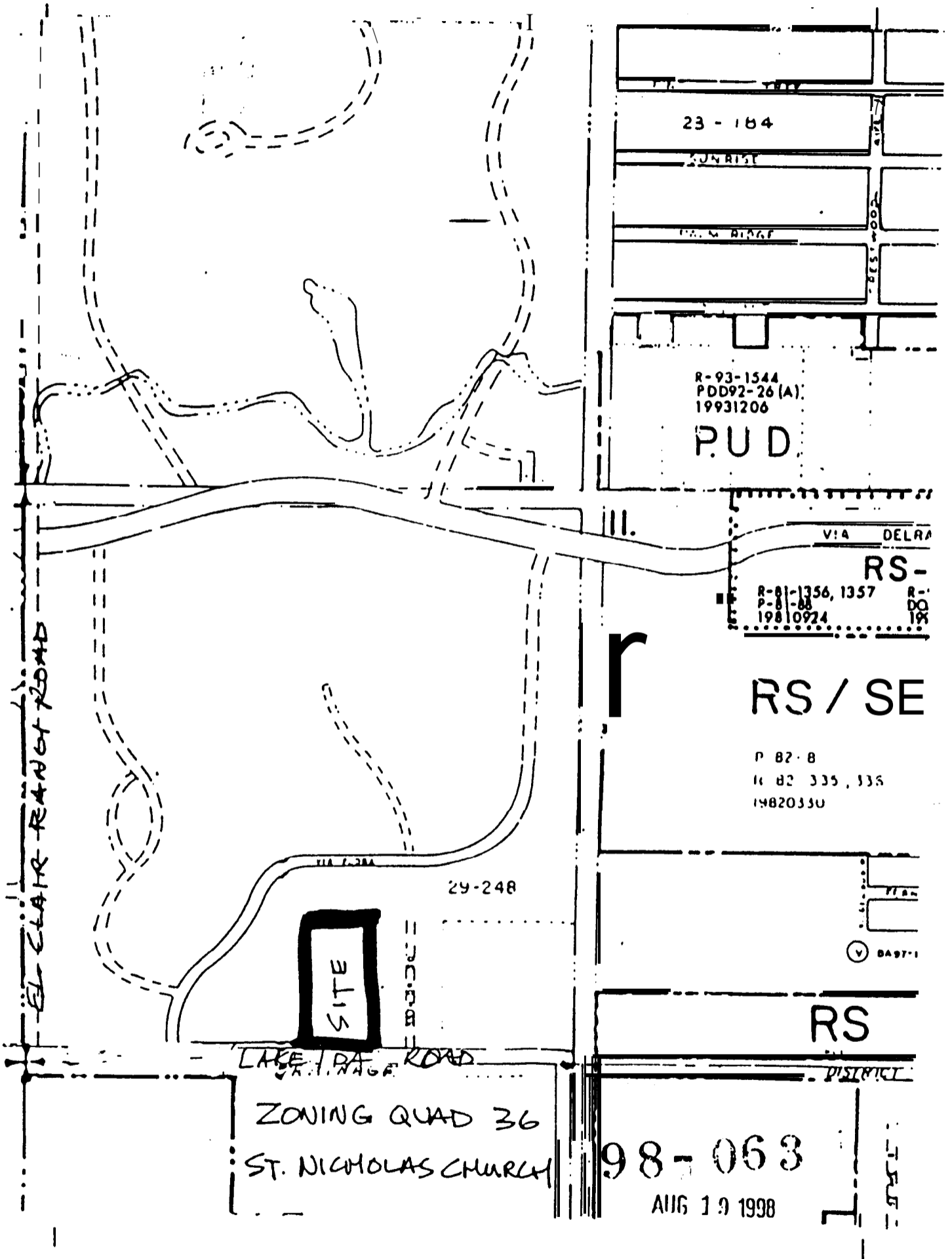


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated November 12, 1998 and the architectural elevations dated February 15, 1999. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)

B. ARCHITECTURAL CONTROL

1. All buildings and structures shall be designed and constructed to be compatible with the general architectural character of surrounding residential areas. (BLDG PERMIT: BLDG-Zoning)
2. Similar architectural character and treatment shall be provided on all sides of the building. (BLDG PERMIT: BLDG-Zoning)
3. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principle structure or equivalent landscape material. (CO: BLDG - Zoning)

C. BUILDING AND SITE DESIGN

1. Total gross enclosed floor area shall be limited a maximum of 35,214 square feet and to the following:
 - a. church and accessory church uses shall not exceed 14,150 square feet;
 - b. congregate living facility - 13,000 square feet; and
 - c. daycare center - 8,064 square feet.
 - d. expansion shall be limited to five percent (5%) or 1,000 square feet, whichever is less. (DRC / ONGOING/ BUILDING - Zoning)
2. The maximum height for all structures, excluding the church, measured from finished grade to highest point, shall not exceed twenty-five (25) feet. (BLDG PERMIT: BLDG - Zoning)
3. The maximum height for the church excluding the ornamental dome (inclusive of all AC/mechanical equipment and satellite dishes) measured from finished grade to highest point of the parapet, shall not exceed thirty-five (35) feet. The ornamental dome for the church shall not exceed fifty-eight (58) feet in height, measured from finished grade of the church to the highest point of the dome. (BLDG PERMIT: BLDG - Zoning)
4. Prior to final site plan approval, the following components on the site plan shall be amended:
 - a. relocate dumpster from the western drive aisle to the central portion of the property;

- b. remove the eight (8) parking spaces which are currently on the west side of the parish hall and relocate elsewhere on the site;
- c. relocate the southern daycare building to be placed perpendicular to the northern building;
- d. air conditioning and other mechanical equipment shall not be permitted on the west side of the parish hall. (DRC: ZONING)

D. CONGREGATE LIVING FACILITY

- 1. The CLF shall be limited to a maximum of twenty four (24) Type 3 CLF beds. (DRC: BUILDING I HEALTH - Zoning)
- 2. Use of the CLF shall be restricted to residents affiliated with the church (e.g. visiting and retired clergy, congregants, seminarians, etc). The CLF shall not be used for purposes such as transient housing, drug or alcohol treatment, extended care, or any uses that require state licensing. (ONGOING: ZONING)

E. ENGINEERING

- 1. The property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for Lake Ida Road, 55 feet from centerline on or before **August 1, 1999**, or prior to the issuance of the first Building Permit, whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)
- 2. The Property owner shall construct a left turn lane on Lake Ida Road at the projects entrance road.
 - A) This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner.
 - B) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
 - C) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
- 3. Prior to the issuance of a certificate of occupancy for the day care center or CLF, the church entrance, from Lake Ida Road, shall be aligned with the entrance to the property located immediately to the south. (CO: ENG)

F. DAY CARE

- 1. The day care center shall be limited to a maximum licensed capacity of 90 children. (ONGOING: HEALTH)

2. Prior to DRC site plan application, the petitioner shall revise the Concurrency application to match the number (90) of children as indicated in the Conditional Class A request. (DRC:CONCURRENCY)

G. HEALTH

1. Architectural plans must be submitted to the Environmental Health Section, Palm Beach County Health Department in accordance with Rule 1 OD-24FAC prior to issuance of a building permit. (BLDG PERMIT: HEALTH/BLDG)

H. LANDSCAPING

1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: Twelve (12) 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. (CO: LANDSCAPE-Zoning)
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE)
2. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Palm heights: twelve (12) feet clear trunk or grey wood, whichever is greater;
 - b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and
 - c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE)
3. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location. (CO: LANDSCAPE)

I. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip; and
 - b. One (1) canopy tree planted every twenty (20) feet on center;
 - c. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and
 - d. Forty eight (48) 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 seventy two (72) inches; and
 - e. The above landscape requirements shall be completed prior to the issuance of the Certificate of Occupancy of the first building. (CO: LANDSCAPE)

J. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING LAKE IDA ROAD)

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum twenty (20) foot wide landscape buffer strip; and
 - b. A minimum two to four three foot high undulating berm with an average height of three (3)two and one half (2.5) feet measured from top of curb;
 - c. One (1) canopy tree for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
 - d. One (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree;
 - e. Twenty four (24) inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches; and
 - f. The above landscape requirements shall be completed prior to the issuance of the Certificate of Occupancy of the first building. (CO: LANDSCAPE)

K. LANDSCAPING ALONG EAST AND THE WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the above property lines shall include:
 - a. A minimum ten (10) foot wide landscape buffer strip;
 - b. One (1) canopy tree planted every twenty (20) feet on center;
 - c. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location;
 - d. Forty eight (48) 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 seventy-two (72) inches; and
 - e. The above landscape requirements for the east and west property line shall be completed prior to the issuance of the Certificate of Occupancy of the first building. (CO:LANDSCAPE)

L. LANDSCAPING ALONG THE WEST PROPERTY LINE AT THE WESTERN TERMINUS OF THE DRIVE (ABUTTING RESIDENTIAL)

1. The property owner shall install a six (6)foot high opaque, wood fence within the western landscape buffer a minimum distance of fifty (50)feet north and south of the center line of the drive aisle located north of the church and parish hall. The fence shall measure a minimum of one hundred (100) feet in length and shall be installed prior to the Certificateof Occupancyforthefirst building. This fence shall extend beyond the last residence abutting the south drive aisle. (CO:LANDSCAPE)
2. Prior to DRC application, the petitioner shall revise the site plan to indicate this fence. (DRC: LANDSCAPE)

M. LANDSCAPING - INTERIOR

1. One landscape island shall be provided forever-y ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRC: ZONING)

2. Landscape islands shall be provided along the facades of all structures. The minimum width of the required landscape islands shall be five (5) feet. The combined length of the required landscape islands shall be no less than 50% of the accumulative length of the structure. All required landscape islands shall be planted with a minimum of one (1) tree or palm every 20 feet on center and appropriate ground cover. (CO: LANDSCAPE)

N. SIGNS

1. New freestanding sign fronting on Lake Ida Road shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - five (5) feet; and
 - b. Maximum sign face area per side - sixty (60) square feet; and
 - c. Maximum number of signs - one (1); and
 - d. Style - Monument style only. (CO: BLDG.)
2. Wall signs shall be limited to the south facades of all buildings. (CO: BLDG.)

O. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy Security Code, shielded and directed down and away from adjacent properties and streets. All lighting shall be setback a minimum of thirty (30) feet from all residential property lines. (BUILDING/CODE ENF-Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (BUILDING-Zoning)
3. All outdoor lighting shall be extinguished no later than 10:00 p.m., excluding security lighting only, (ONGOING: CODE ENF)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF)

P. USE LIMITATIONS

1. All services shall be held within the church and the hours of operation shall be limited to 7:00 a.m. - 7:00p.m., Monday to Friday and 7:00 a.m. to 9:00 p.m Saturday and Sunday, excluding holiday services. (ONGOING: CODE ENF)
2. Accessory outdoor uses such as temporary sales events, (i.e. Christmas tree and pumpkin sales, rummage sales, bake sales, etc.) shall be limited to a maximum of three (3) events per year and shall be setback a minimum of 100 feet from all perimeter property lines. No temporary amusements or special events, (i.e. bingo, carnivals, circuses, auctions or tent revivals, etc.) are permitted on the site. (ONGOING/SPECIAL PERMIT: CODE ENF/ZONING - Zoning)
3. Outdoor speakers or public address systems shall not be permitted on site. (ONGOING: CODE ENF - Zoning)

Q. DEED RESTRICTION

1. Within 20 days of the approval of this petition by the Board of County Commissioners, the petitioner shall record a Declaration of Restriction (Deed Restriction) in the Public Records which restricts the use of the property to a house of worship, parish hall with accessory facilities of a congregate living facility and a day care center in accordance with Condition C.1.
(ONGOING: Co Atty)

R. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

R 99 069 APR 22 1999

DECLARATION OF RESTRICTTIONS

This Declaration of Restrictions ("Declaration") is made this FRIDAY day of A 9 9 9 b y
THE DIOCESE OF NEWTON FOR THE MELKITES IN THE UNITED STATES OF
AMERICA, INC., a Massachusetts corporation ("Owner");

WHEREAS Owner is the ownct of the properly described in Exhibit "A" ("Property");

AND WHEREAS Palm Beach County has approved Owner's pctition for a rczoning and
a conditional use ("Approvals") to allow for the development of a house of worship, a parish hall
with accessory facilities, a congregate living facility, and a clay care center upon the Property
("Uses")

AND WHEREAS Owner desires to voluntarily restrict the Property as set forth below,
Now therefore, Owner now declares as follows:

1. The foregoing recitations of fact are true and correct.
2. Subject to the provisions of this Declaration, the Property shall be used for a
house of worship, a parish hall with accessory facilities, a congregate living facility with a
maximum of twenty-four (24) bcds, and a day care center for a maximum of nincty (90) children
per day and accessory uses and accessory buildings thereto. It is acknowledged that all of the
uses comprising the Uses will not be constructed at the same time and may not be constructed at
all.
3. Owner agrees that this Declaration shall bc deemed a covenant running with the
Property and shall remain in full force and effect until such time as this Dcclarntion is released or

amended by the Board of County Commissioners for Palm Beach County (the "Board"). In the event of a request by Owner to Board for a release or amendment to this Declaration, the Board shall act reasonably in connection with the request based upon the then existing facts, and circumstances. Notwithstanding the foregoing, in the event Palm Beach County through the Board, and only the Board, authorizes amendment(s) to the Approvals at a duly authorized public hearing, the Board shall, upon request, execute a document, in recordable form, consenting to changes to this Declaration consistent with the amendment(s) to the Approvals.

4. Owner agrees that this Declaration may be enforced by Palm Beach County.

5. Owner further agrees that this Declaration shall be recorded in the Public Records of Palm Beach County, Florida.

Saidel Dagher
 Witness signature

Barbara S. Richardson
 Witness signature

THE DIOCESE OF NEWTON FOR THE
 MELKITES IN THE UNITED STATES OF
 AMERICA, INC.,
 a Massachusetts corporation

DIOCESE OF NEWTON
 By: [Signature]
 Its: [Signature]

STATE OF MASSACHUSETTS

COUNTY OF MIDDLESEX

The foregoing instrument was acknowledged before me this 24 of April, 1999, by FR. ANDRE ST. GERMAIN as SECR/TREAS of THE DIOCESE OF NEWTON FOR THE MELKITES IN THE UNITED STATES OF AMERICA, INC., a Massachusetts corporation, on behalf of the corporation. He/she is personally known to me ~~or has produced~~ _____ as identification

Paul F. Lawler
(Signature of Notary Public)

Paul F. Lawler
(Typed name of Notary Public)

Notary Public, ~~State of Florida~~

Commission No, _____

My commission expires: 5-15-03

ACCEPTANCE OF **PALM BEACH COUNTY**

Palm Beach County hereby accepts the foregoing Declaration of Resttictions.

Alison R. Moore

Witness signature

Deborah Dietero

PALMBEACH COUNTY

R 77 569 .4 APR 22 1999

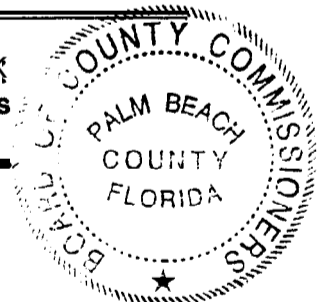
Maude Ford Lee

By: Maude Ford Lee

Its: Chair

DOROTHY H. WILKEN, CLERK
Board of County Commissioners

By Jean Davelle
DEPUTY CLERK



~~Witness signature of COUNTY OF PALM BEACH I, DOROTHY H. WILKEN, ex-officio Clerk of the Board of County Commissioners certify this to be a true and correct copy of the original filed in my office on _____ DATED at West Palm Beach, FL on _____ DOROTHY H. WILKEN, Clerk By _____ D.C.~~

BROAD AND CASSEL
ATTORNEYS AT LAW

BOCA RATON FT LAUDERDALE MIAMI ORLANDO TALLAHASSEE TAMPA WEST PALM BEACH

FIFTH FLOOR
400 AUSTRALIAN AVENUE SOUTH
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(561) 832-3300
FAX (561) 655-1109

Reply to.
CLIFFORD I. HERTZ, P.A.
DIRECT FAX: (561) 650-1123
INTERNET: chertz@broadandcassel.com

April 22, 1999

VIA FEDERAL EXPRESS

Ms. Barbara E. Alterman
Palm Beach County Attorney
301 North Olive Avenue
Suite 601
West Palm Beach, Florida 33401

Re: Declaration of Restrictions for The Diocese of Newton for
the Melkites in the United States of America, Inc.

Dear Ms. Alterman

Enclosed please find the originally executed Declaration of Restrictions with regard to the above referenced matter for signature and acceptance by Palm Beach County.

Please return the original executed document to me so that we may record same in the Public Records of Palm Beach County, Florida.

Thank you for your continued assistance in this matter. Should you have any questions or comments, please do not hesitate to contact our office.

Sincerely,

BROAD AND CASSEL



Clifford I. Hertz, P.A.

CIH:tb
Enclosure

cc: Raymond Kayal, Jr., Esquire