

Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-4-13

WHEREAS, SOUTHWESTERN GRANT, LLC. ET AL applied for the following:

- (1) RESCISSION and REVOCATION of Resolutions Z-22-08 and Z-23-08, both passed and adopted by the Board of County Commissioners.
- (2) SPECIAL EXCEPTION to permit the expansion of an existing charter school onto additional property.
- (3) SPECIAL EXCEPTION to permit the expansion of the existing charter school with 2,000 students in grades K-12.
- (4) SPECIAL EXCEPTION to permit the high school within a mile of the Urban Development Boundary.
- (5) Deletion of Paragraphs 6(a) through 6(h) of Declaration of Restrictions, recorded in Official Record Book 22662 Pages 3984 - 4007, reading as follows:

“6. Charter School.

(a) The Plan identifies 7.82 acres (hereinafter collectively the ‘School Site’) designated for the construction and operation of one or more K-12 charter schools, which will provide 1100 student stations, operated under one or more charter(s) from the School Board of the County (hereinafter the ‘School Board’). Prior to construction of the School Site, the charter school(s) shall be subject to review by the Miami-Dade County Developmental Impact Committee (‘DIC’) Executive Council under separate application in accordance with procedures for the review of charter schools. The application(s) for such review shall include a Phase I Environmental Assessment and subsurface investigations and, if required, Phase II Environmental Assessment and subsurface investigations prepared by a licensed geotechnical firm. The cost of the Phase I Environmental Assessment and Phase II Environmental Assessment if required, shall be paid for by the Owners.”

(b) Prior to seeking the final plat review for any portion of the Property, the Owners shall provide documented proof to the County that a charter application(s) has/have been submitted to the School Board, that such application(s) has/have been granted subject to County review as provided in Section 6(a) hereof, and that a duly qualified charter school operator has been retained and has committed to operate such charter school(s) on the school site. In addition, the owners prior to seeking final plat approval on any portion of the property, shall enter into a separate agreement with the

School Board upon approval of the charter school(s) outlining appropriate operation terms. In the event the charter school(s) is not approved, the owners shall comply with Section 6(h) hereof.

- (c) Prior to obtain final plat of any portion of the property, the owners shall show documented proof to the County that the charter school(s) have been approved by the DIC Executive Council. Should the charter school(s) be comprised of one or more campuses, this provision shall be considered satisfied only if the DIC Executive Council has reviewed and approved the entirety of all of the campuses.
- (d) Prior to seeking the issuance of certificate of occupancy for the 400th residential unit, the owners shall have obtained certificates of use and occupancy for a charter school(s) providing a minimum of 400 student stations for at least a minimum K-5 program. Proof of compliance with this provision shall be in the form of monthly reports submitted by the owners to the Director of Regulatory and Economic Resources and the School Board specifying the number of certificates of occupancy obtained monthly and the number of certificates of occupancy anticipated to be issued in the following month for residential dwelling units, monthly reports shall be based upon personal knowledge and shall be sworn and notarized.
- (e) Prior to seeking the issuance of a certificate of occupancy for the 800th residential unit, the owners shall have obtained certificates of use and occupancy for a charter school(s) providing a minimum of an additional 400 student stations for grades K-12. Prior to seeking the issuance of a certificate of occupancy for the 1000th residential unit, the owner shall have obtained certificates of use and occupancy for a charter school(s) providing an aggregate total of 1100 student stations. Proof of compliance with these provisions shall be as set forth in Section 6(d) above. The owner shall apply for the creation of a special taxing district, create a homeowners association, and/or similar entity approved by Miami-Dade County to maintain and operate the charter school(s) in the event that such maintenance or operation would become necessary. Owners shall be deemed to have complied with paragraph 6(a)-(e) herein upon completing and opening an 1100 student station charter school.
- (f) The charter school(s) shall be operated continuously so long as this Declaration remains in effect subject to (i) any closures due to casualties and/or natural disasters an (ii) changes approved by the County and/or the School Board.
- (g) Until all of the a fore stated approvals for the charter school(s) has been obtained, the construction of the charter school(s) has commenced, the School Site shall be maintained as open/green space. At no time the School Site be used for the location of temporary structures or uses such as but not limited to, construction trailers, sales offices, construction staging areas or construction storage areas.
- (h) In the event that the charter school application(s) is/are not approved by the School Board prior to final plat on any portion of the Property, or in the event

the charter school(s) is /are not approved by the DIC Executive Council prior to approval of final plat in any portion of the property, as reference above, the owners shall offer the 7.82 acres School Site for sale to the School Board in accordance to the provisions of a separate covenant between the owners and the School Board (the "School Board Covenant"), acceptable to the School Board, to be recorded prior to application for final approval of any portion of the property. In the event that the School Board fails to enter into an agreement with the owners to purchase the School Site pursuant to the School Board Covenant in favor of the School Board, the School Site shall remain as open/green space and the owners may proceed with the development of the remainder of the property as provided herein. If not developed as a charter school(s) or purchased by the School Board, the School Site, which shall then remain open/green space shall be landscape and maintained by the owners at no cost to the County, in accordance with a landscape plan, to be submitted to and approved by the Director, Department of Planning and Zoning, prior to final approval of any portion of the Property abutting or immediately across the street from the 7.82 acres School Site. Further in such case the owners shall apply for the creation of a special taxing district, create a homeowner's association and/or similar entity approved by Miami-Dade County to maintain the School Site in perpetuity open as green space. Notwithstanding any provision herein to the contrary, the then fee simple owners of the school site may offer the School Site for sale to the School Board at any time.

(6) DELETION of Paragraphs #6(d) & 6(e) of Modification of Declaration of Restrictions Recorded at Official Records Book 22662, Pages 3984 - 4007, recorded in Official Record Book 24780 Pages 2321 - 2406, reading as follows:

6.(d) The owners shall obtain a certificate(s) of use and occupancy for a charter school(s) providing a minimum of 800 student stations for grades K-12 no later than the beginning of the 2007-08 school year.

6.(e) The owners shall obtain a certificate(s) of use and occupancy for a charter school(s) providing a minimum of an additional 300 student stations for grades K-12, providing an aggregate total of 1100 student stations, no later than the beginning of the 2008-09 school year. The owner shall apply for the creation of a special taxing district, create a homeowners association and /or similar entity approved by Miami-Dade County to maintain and operate the charter school(s) in the event that such maintenance or operation would become necessary. Owners shall be deemed to have complied with paragraph 6(a)-(e) herein completing and opening an 1100 student station charter school.

(7) DELETION of Declaration of Restrictions, Recorded in Official Record Book 25570 Pages 4647 - 4655.

(8) DELETION of Declaration of Restrictions For Charter School, Record in Official Record Book 27428 Pages 3281 - 3297.

(9) DELETION of Declaration of Restrictions For Charter School Amendment and Restatement of the Declaration of Restrictions for charter School Recorded at Official

Records Book 26217, Pages 1426 - 1434, Recorded in Official Record Book 27428
Pages 3382 - 3397.

- (10) DELETION of Second Modification and Restatement of That Certain Declaration of Restrictions Recorded At Official Records Book 22662, Pages 3984 - 4007, Record in Official Record Book 27428 Pages 3308 - 3330.

The purpose of Requests #5 - #10 is to allow the applicant to remove all prior zoning resolutions and covenants relating to the charter school use on the property and have them superseded by a new resolution and covenant, submit a new site plan showing the expansion of the charter school onto additional property and increase the number of students for the existing charter school.

- (11) NON-USE VARIANCE to permit a proposed gymnasium/classroom building setback 19'.8' from the dual frontage (south) property and setback a minimum of 5'.4" from the side street (east) property line (25' required for both).
- (12) NON-USE VARIANCE to permit a proposed classroom building setback a minimum of 11' from the side street (north) property line and setback a minimum of 14'10" from the side street (south) property line (25' required for both).
- (13) NON-USE VARIANCE to permit parking & drives within 25' of a right-of-way (not permitted).
- (14) NON-USE VARIANCE to permit temporary parking on natural terrain (hard surface required).
- (15) NON-USE VARIANCE to permit 4 wall signs, each with an area of 2.8 sq. ft. (one 24 sq. ft. permitted).

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Somerset Charter School at Silver Palms" as prepared by Civica Architect dated stamped received 1/30/13 with sheets A-1.3 & A-1.4 last handwritten revision dated 3/6/13 for a total of 18 sheets. Plans may be modified at public hearing.

SUBJECT PROPERTY: Tracts F, G and H of SILVER PALM EAST, SECTION TWO, Plat book 164, Page 87 and Lots 1-11 of BAILES SUBDIVISION PB 167-44.

LOCATION: The North & South side of S.W. 232 Street, lying between SW 114 Place & SW 117 Avenue, Miami-Dade County, Florida, and

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

WHEREAS, upon due and proper consideration having been given to the matter and to the recommendation of the Developmental Impact Committee, it is the opinion of

this Board that the requested rescission and revocation of Resolutions Z-22-08 and Z-23-08, both passed and adopted by the Board of County Commissioners (Item #1), the requested special exception to permit the expansion of an existing charter school onto additional property (Item #2), the requested special exception to permit the expansion of the existing charter school with 2,000 students in grades K-12 (Item #3), the requested special exception to permit the high school within a mile of the Urban Development Boundary (Item #4), the requested Deletion of Paragraphs 6(a) through 6(h) of Declaration of Restrictions, recorded in Official Record Book 22662 Pages 3984 – 4007 (Item #5), the requested deletion of paragraphs #6(d) & 6(e) of Modification of Declaration of Restrictions Recorded at Official Records Book 22662, Pages 3984 - 4007, recorded in Official Record Book 24780 Pages 2321 – 2406 (Item #6), the requested deletion of Declaration of Restrictions, Recorded in Official Record Book 25570 Pages 4647 – 4655 (Item #7), the requested deletion of Declaration of Restrictions For Charter School, Record in Official Record Book 27428 Pages 3281 – 3297 (Item #8), the requested deletion of Declaration of Restrictions For Charter School Amendment and Restatement of the Declaration of Restrictions for charter School Recorded at Official Records Book 26217, Pages 1426 - 1434, Recorded in Official Record Book 27428 Pages 3382 - 3397 (Item #9), the requested deletion of Second Modification and Restatement of That Certain Declaration of Restrictions Recorded At Official Records Book 22662, Pages 3984 - 4007, Record in Official Record Book 27428 Pages 3308 - 3330 (Item #10), the requested deletion of Second Modification and Restatement of That Certain Declaration of Restrictions Recorded At Official Records Book 22662, Pages 3984 - 4007, Record in Official Record Book 27428 Pages 3308 - 3330 (Item #11), the requested non-use variance to permit a proposed classroom building setback a minimum of 11' from the side street (north) property line and setback a minimum of 14'10" from the side street (south) property line (Item #12), the requested

non-use variance to permit parking & drives within 25' of a right-of-way (Item #13), the requested non-use variance to permit temporary parking on natural terrain (Item #14), and the requested non-use variance to permit 4 wall signs, each with an area of 2.8 sq. ft (Item #15) would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and would be consistent with the Comprehensive Development Master Plan, and that the requested special exceptions (Items #2, #3, and #4) would not have an adverse impact upon the public interest and should be approved, and

WHEREAS, a motion to approve Items #1 through #15 was offered by Commissioner Lynda Bell, seconded by Commissioner Dennis C. Moss, and upon a poll of the members present the vote was as follows:

Bruno A. Barreiro	aye	Barbara J. Jordan	aye
Lynda Bell	aye	Jean Monestime	absent
Esteban Bovo, Jr.	aye	Dennis C. Moss	aye
Jose "Pepe" Diaz	absent	Sen. Javier D. Souto	absent
Audrey M. Edmonson	absent	Xavier L. Suarez	aye
Sally A. Heyman	absent	Juan C. Zapata	absent
		Rebecca Sosa	aye

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Miami-Dade County, Florida, that the requested rescission and revocation of Resolutions Z-22-08 and Z-23-08, both passed and adopted by the Board of County Commissioners (Item #1) be and the same is hereby, the requested special exception to permit the expansion of an existing charter school onto additional property (Item #2), the requested special exception to permit the expansion of the existing charter school with 2,000 students in grades K-12 (Item #3), the requested special exception to permit the high school within a mile of the Urban Development Boundary (Item #4), the requested Deletion of Paragraphs 6(a) through 6(h) of Declaration of Restrictions, recorded in

Official Record Book 22662 Pages 3984 – 4007 (Item #5), the requested deletion of paragraphs #6(d) & 6(e) of Modification of Declaration of Restrictions Recorded at Official Records Book 22662, Pages 3984 - 4007, recorded in Official Record Book 24780 Pages 2321 – 2406 (Item #6), the requested deletion of Declaration of Restrictions, Recorded in Official Record Book 25570 Pages 4647 – 4655 (Item #7), the requested deletion of Declaration of Restrictions For Charter School, Record in Official Record Book 27428 Pages 3281 – 3297 (Item #8), the requested deletion of Declaration of Restrictions For Charter School Amendment and Restatement of the Declaration of Restrictions for charter School Recorded at Official Records Book 26217, Pages 1426 - 1434, Recorded in Official Record Book 27428 Pages 3382 - 3397 (Item #9), the requested deletion of Second Modification and Restatement of That Certain Declaration of Restrictions Recorded At Official Records Book 22662, Pages 3984 - 4007, Record in Official Record Book 27428 Pages 3308 - 3330 (Item #10), the requested deletion of Second Modification and Restatement of That Certain Declaration of Restrictions Recorded At Official Records Book 22662, Pages 3984 - 4007, Record in Official Record Book 27428 Pages 3308 - 3330 (Item #11), the requested non-use variance to permit a proposed classroom building setback a minimum of 11' from the side street (north) property line and setback a minimum of 14'10" from the side street (south) property line (Item #12), the requested non-use variance to permit parking & drives within 25' of a right-of-way (Item #13), the requested non-use variance to permit temporary parking on natural terrain (Item #14), and the requested non-use variance to permit 4 wall signs, each with an area of 2.8 sq. ft (Item #15) be and the same are hereby approved, subject to the following conditions:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Regulatory and Economic Resources upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.

2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Somerset Charter School at Silver Palms" as prepared by Civica Architect, dated stamped received 1/29/13 and consisting of 18 sheets. Subject to the applicant's ability to obtain consent from the easement holder, the covered area in parcel D shall be extended to the full length of the sidewalk.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submit to the Department of Regulatory and Economic Resources for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Use.
5. That the applicant submit to the Public Works and Waste Management Department a traffic signal warrant study one (1) year after the school reaching full capacity of 2,000 students for the intersections of SW 232 Street with SW 117 Avenue and with SW 114 Place. If a traffic signal is warranted, the applicant shall submit a permit application for said traffic signal(s) within 60 days of the traffic signal being warranted, and shall furnish and install same within six (6) months after the issuance of said permit.
6. That the applicant obtain a Certificate of Use from and promptly renew the same annually with the Department of Regulatory and Economic Resources, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.
7. That at the time of Certificate of Use renewal and each subsequent renewal, the owner shall submit to the Department of Regulatory and Economic Resources a letter from the principal of the school detailing the number of students and the grade levels that are currently enrolled in said facility.
8. That at the time of Certificate of Use renewal and with each subsequent renewal, the owner shall submit to the Department of Regulatory and Economic Resources a letter or approved form from the Public Works and Waste Management Department showing that the school facility is in compliance with the traffic study and the Traffic Operations Plan (TOP) that was submitted as part of the hearing application.
9. That no outside loud speakers shall be permitted on the property.
10. That the waste pick-up for the charter school shall be performed by a private commercial entity and shall be limited to pick-up between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except during arrival and dismissal times.
11. That night activities and/or functions at the charter school be limited to ten (10) events per year and shall end no later than 10:00 p.m.

12. That the charter school use shall be limited to grades Kindergarten through 12th grade for a maximum of 2,000 students, as follows:

Kindergarten – 4 – Elementary	Proposed 681
Grades 5 – 8 – Middle	Proposed 636
Grades 9 – 12 – High	Proposed 683

However, the charter school has flexibility to increase or decrease the number of students per grade level based on enrollment demand so long as the total number of students at the charter school does not exceed the elementary, middle and high school maximum student enrollment described above.

13. That the gates shall be opened at least 45 minutes prior to the arrival and dismissal times.

14. The Charter School shall have three (3) staggered shifts of arrival and dismissal times, separated by a minimum of thirty (30) minutes, as follows:

7:30 and 2:30	Grades 9 – 12
8:00 and 3:00	Grades 5 -8
8:30 and 3:30	Kindergarten - 4

15. That the Owner shall have trained personnel on site to manage the traffic operations during the arrival and dismissal period.

16. That the temporary parking on natural terrain on Parcel B shall cease upon the completion of the parking lot on Parcels C and D, but no more than 24 months from the date of issuance of the building permit.

17. That other than traffic signal(s), all off-site improvements be constructed prior to the issuance of the first Certificate of Use for any building.

18. If the charter school facility is constructed but fails to begin operation and/or the charter school fails after establishment, that the property owner, within 36 months of the facility's failure to begin operation or closure shall cause:

- a. the facility to be in full compliance with all zoning regulations applicable to the property on which the charter school is located and allowing a use other than the charter school use, or
- b. the operation of the charter school facility to be transferred to another charter school operator or the School Board, approved through applicable processes of the Miami-Dade County School Board, or
- c. the charter school facility to be converted to an allowable use within the zoning district, provided said allowable use has first been authorized through the issuance of the appropriate permits, or
- d. authorization to be obtained at public hearing by the appropriate zoning board to convert the charter school facility to a use not otherwise allowable within the zoning district.

19. That the applicants comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the various Departments as contained in the Departmental memoranda which are part of the record of the March 20, 2013 DIC of this application and incorporated herein by reference.

BE IT FURTHER RESOLVED, that Resolutions Z-22-08 and Z-23-08 be and the same are hereby null and void and of no further effect.

BE IT FURTHER RESOLVED, notice is hereby given to the applicant that the request herein constitutes an initial development order and does not constitute a final development order and that one, or more, concurrency determinations will subsequently be required before development will be permitted.

The Director is hereby authorized to make the necessary notations upon the maps and records of the Miami-Dade County Department of Regulatory and Economic Resources and to issue all permits in accordance with the terms and conditions of this resolution.

THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED this 23rd day of May, 2012, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 13-5-CC-1
ej

HARVEY RUVIN, Clerk
Board of County Commissioners
Miami-Dade County, Florida

By CHRISTOPHER AGRIPPA
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 31ST DAY OF MAY, 2013.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Earl Jones, as Deputy Clerk for the Miami-Dade County Department of Regulatory and Economic Resources as designated by the Director of the Miami-Dade County Department of Regulatory and Economic Resources and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-4-13 adopted by said Board of County Commissioners at its meeting held on the 23rd day of May, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 31st day of May, 2013.



Earl Jones, Deputy Clerk (3230)
Miami-Dade County Department of Regulatory and
Economic Resources

SEAL

