Approved: _____ **Mayor**

Veto: _____

Override: _____

RESOLUTION NO. Z-22-08

WHEREAS, **SOUTHWESTERN GRANT, LLC** applied for the following:

(1) SPECIAL EXCEPTION to permit the expansion of an existing Charter School.

(2) MODIFICATION of Paragraph 6(a) of a Declaration of Restrictions as recorded in Official Records Book 22662, Pages 3984 – 4007, only as it applies to the subject property, reading as follows:

FROM: "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."

TO: "6. Charter School.

(a) The Plan identifies 2.47 acres (the 'School Site') designated for the construction and operation of a K-5 charter school, which will provide a maximum of 500 student stations, operated under one or more charter(s) from the School Board of the County (hereinafter the 'School Board')."

(3) MODIFICATION of Conditions 6(d) and 6(e) of Resolution #Z-20-06, passed and adopted by the Board of County Commissioners, only as it applies to the subject property and reading as follows:

FROM: "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."

TO: "6(d) The Owners shall obtain a Certificate of Use for the charter school providing an aggregate total of 500 student stations in grades K-5 no later than the beginning of the 2010-2011 school year."

FROM: "6(e) The owner 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 1,100 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 a maintenance or operation would become necessary. Owners shall be deemed to have complied with Paragraph 6(a) – (e) herein upon completing and opening a 1,100-student station charter school."

TO: "6(e) The owner shall obtain a Certificate of Use for a charter school providing an additional 200 student stations for grades K-5, providing an aggregate total of 500 student stations no later than the beginning of the 2010-11 school year. Owners shall be deemed to have complied with Paragraph 6(a) – (e) herein upon completing and opening a 500-student station charter school."

(4) MODIFICATION of Paragraphs 6(d) and 6(e) of Declaration of Restrictions for Charter Schools as recorded in the Official Records Book 22662, Pages 3984 – 4007, last modified by a Modification of Declaration of Restrictions, recorded in Official Records Book 22662, Pages 3984-4007, as recorded in Official Records Book 24780, Pages 2321 – 2406, only as it applies to the subject property, reading as follows:

FROM: "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."

TO: "6(d) The Owners shall obtain a Certificate of Use for the charter school providing a maximum of 500 students stations in grades K-5 no later than the beginning of the 2010-2011 school year."

FROM: "6(e) The owner 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 1,100 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 upon completing and opening an 1,100-student station charter school."

TO: "6(e) The owner shall obtain a certificate of Use for a Charter School providing an additional 200 students station for grades K-5, providing an aggregate total of 500 students stations no later than the beginning of the 2010-2011 school year. Owners shall be deemed to have complied with Paragraphs 6(a)-(e) herein upon completing and opening a 500 student station charter school."

(5) MODIFICATION of Paragraphs #2 and #11 of a Declaration of Restrictions as recorded in Official Records Book 26217, Pages 1426 – 1434, only as it applies to the subject property, reading as follows:

FROM: "2. That the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Somerset Charter School at Silver Palm,' by Civica, dated stamped received January 27, 2005."

TO: "2. That in the approval of the plan, the same be substantially in accordance with that submitted entitled 'Somerset Charter Elementary School at Silver Palm, S.W. 117th Avenue and Silver Palm Drive, Miami, FL' by Civica Architect, dated stamped received 5/21/08 and consisting of 10 pages."

FROM: "11. That the charter school use shall be limited to grades K-5 for a maximum of 300 students."

TO: "11. That the charter school use shall be limited to grades K-5 for a maximum of 500 students."

(6) Applicant is requesting to permit temporary parking on natural terrain (hard surface required).

The purpose of these requests is to allow the applicant to submit revised plans indicating an increase in the number of students for a previously approved Charter School and to allow temporary parking on natural terrain.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 - #5 may be considered under §33-311(A)(7) (Generalized Modification Standards) or §33-311(A)(17) (Modification or Elimination of Conditions or Covenants after Public Hearing) and request #6 may be considered under §33-311(a)(4)(b) (Non-Use Variance) or (c) (alternative Non-Use Variance)

The aforementioned plans are on file and may be examined in the Department of Planning and Zoning. Plans may be modified at public hearing.

SUBJECT PROPERTY: Tract "H", SILVER PALM EAST, SECTION TWO, Plat book 164, Page 87.

LOCATION: The Northeast corner of S.W. 232 Street and S.W. 117 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, 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, matter, it is the opinion of this Board that the requested special exception to permit the expansion of an existing Charter School (Item #1), the requested modifications of Paragraph 6(a) of a Declaration of Restrictions as recorded in Official Records Book 22662, Pages 3984 – 4007, only as it applies to the subject property (Item #2), of Conditions 6(d) and 6(e) of Resolution #Z-20-06, passed and adopted by the Board of County Commissioners, only as it applies to the subject property (Item #3), of Paragraphs 6(d) and 6(e) of Declaration of Restrictions for Charter Schools as recorded in the Official Records Book 22662, Pages 3984 – 4007, last modified by a Modification of Declaration of Restrictions, recorded in Official Records Book 22662, Pages 3984-4007, as recorded in Official Records Book 24780, Pages 2321 – 2406, only as it applies to the subject property (Item #4), of Paragraphs #2 and #11 of a Declaration of Restrictions as recorded in Official Records Book 26217, Pages 1426 – 1434, only as it applies to the subject property (Item #5), and the request to permit temporary parking on natural terrain (Item #6) 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 that the requested

special exception (Item #1) would not have an adverse impact upon the public interest and should be approved, and

WHEREAS, a motion to approve Item #1, approve Items #2 through 5 under Section 33-311(A)(7), approve Item #6 as a non-use variance, deny Items #2 through 5 without prejudice under Section 33-311(A)(17), and deny Item #6 without prejudice as an alternative non-use variance was offered by Commissioner Katy Sorenson, seconded by Commissioner Jose "Pepe" Diaz, and upon a poll of the members present the vote was as follows:

Jose "Pepe" Diaz	aye	Dennis C. Moss	aye
Audrey M. Edmonson	aye	Dorrin D. Rolle	aye
Carlos A. Gimmenez	aye	Natacha Seijas	aye
Sally A. Heyman	absent	Katy Sorenson	aye
Barbara J. Jordan	absent	Rebecca Sosa	aye
Joe A. Martinez	absent	Sen. Javier D. Souto	aye

Bruno A. Barreiro aye

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Miami-Dade County, Florida, that the requested special exception to permit the expansion of an existing Charter School (Item #1), be and the same is hereby approved, and the requested modifications of Paragraph 6(a) of a Declaration of Restrictions as recorded in Official Records Book 22662, Pages 3984 – 4007, only as it applies to the subject property (Item #2), of Conditions 6(d) and 6(e) of Resolution #Z-20-06, passed and adopted by the Board of County Commissioners, only as it applies to the subject property (Item #3), of Paragraphs 6(d) and 6(e) of Declaration of Restrictions for Charter Schools as recorded in the Official Records Book 22662, Pages 3984 – 4007, last modified by a Modification of Declaration of Restrictions, recorded in Official Records Book 22662, Pages 3984-4007, as recorded in Official Records Book 24780, Pages 2321 – 2406, only as it applies to the subject property (Item #4), of Paragraphs #2 and #11 of a Declaration of Restrictions as

recorded in Official Records Book 26217, Pages 1426 – 1434, only as it applies to the subject property (Item #5) be and the same are hereby approved under Section 33-311(A)(7), and that the request to permit temporary parking on natural terrain (Item #6) be and the same is hereby approved as a non-use variance, with Items #1 through 6 subject to the following conditions:

1. That the applicant submit revised Declarations of Restrictions to the Department of Planning and Zoning within 90 days of approval of this application unless an extension is granted by the Director for good cause shown.

2. That all the conditions of Resolution No. Z-20-08 remain in full force and effect except as herein modified.

3. That the charter school use be limited to grades Kindergarten through 5th grade for a maximum of 500 students.

4. That the applicant obtain a Certificate of Use from and promptly renew the same annually with the Department of Planning and Zoning for the Charter School, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.

5. That the applicant 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 this application and incorporated herein by reference.

6. That in accordance with Section 33-257 of the Code, a Unity of Title Agreement or Agreement in Lieu of Unity of Title, in recordable form, encumbering the entire subject property (Parcel C) and the two Parcels (A and B) which are the subject of application #07-318, be submitted to and meet with the approval of the Director of the Department of Planning and Zoning prior to platting.

7. That the temporary parking on natural terrain shall cease upon the earlier of (i) the completion of the parking lot proposed under application No. 07-318 or (ii) December 31, 2008. A time extension may be granted by the Director of the Department of Planning and Zoning for good cause shown.

8. That the approval of this application shall be contingent upon approval of application #07-318.

9. That safe access from and to the temporary parking on natural terrain be provided by the applicant upon approval by the Public Works Department.

10. That a unity of title be submitted to the Department of Planning and Zoning at the time of building permit application. Said instrument shall tie subject Parcels C to Parcel A and B which are the subject of application 07-318.

11. That all temporary parking on natural terrain on Parcel C be restricted to teachers and staff only.

12. That the Charter School have a minimum of three staggered start/dismissal times for grades K-5 as follows

    Arrival/ Dismissal
    7:30 a.m. and 2:30 p.m.
    8: 00 a.m. and 3:00 p.m.
    8:30 a.m. and 3:30 p.m.

BE IT FURTHER RESOLVED that the requested modification of Paragraph 6(a) of a Declaration of Restrictions as recorded in Official Records Book 22662, Pages 3984 – 4007, only as it applies to the subject property (Item #2), shall read as follows:

6. Charter School.

   (a) The Plan identifies 2.47 acres (the 'School Site') designated for the construction and operation of a K-5 charter school, which will provide a maximum of 500 student stations, operated under one or more charter(s) from the School Board of the County (hereinafter the 'School Board').

BE IT FURTHER RESOLVED that the requested modification of Conditions 6(d) and 6(e) of Resolution #Z-20-06, passed and adopted by the Board of County Commissioners, only as it applies to the subject property (Item #3), shall read as follows:

6(d) The Owners shall obtain a Certificate of Use for the charter school providing an aggregate total of 500 student stations in grades K-5 no later than the beginning of the 2010-2011 school year.

6(e) The owner shall obtain a Certificate of Use for a charter school providing an additional 200 student stations for grades K-5, providing an aggregate total of 500 student stations no later than the beginning of the 2010-11 school year. Owners shall be deemed to have complied with Paragraph 6(a) – (e) herein upon completing and opening a 500-student station charter school.

BE IT FURTHER RESOLVED that the requested modification of Paragraphs 6(d) and 6(e) of Declaration of Restrictions for Charter Schools as recorded in the Official Records Book 22662, Pages 3984 – 4007, last modified by a Modification of Declaration of

Restrictions, recorded in Official Records Book 22662, Pages 3984-4007, as recorded in Official Records Book 24780, Pages 2321 – 2406, only as it applies to the subject property (Item #4), shall read as follows:

6(d) The Owners shall obtain a Certificate of Use for the charter school providing a maximum of 500 students stations in grades K-5 no later than the beginning of the 2010-2011 school year

6(e) The owner shall obtain a certificate of Use for a Charter School providing an additional 200 students station for grades K-5, providing an aggregate total of 500 students stations no later than the beginning of the 2010-2011 school year. Owners shall be deemed to have complied with Paragraphs 6(a)-(e) herein upon completing and opening a 500 student station charter school.

BE IT FURTHER RESOLVED that the requested modification of Paragraphs #2 and #11 of a Declaration of Restrictions as recorded in Official Records Book 26217, Pages 1426 – 1434, only as it applies to the subject property (Item #5), shall read as follows:

2. That in the approval of the plan, the same be substantially in accordance with that submitted entitled 'Somerset Charter Elementary School at Silver Palm, S.W. 117th Avenue and Silver Palm Drive, Miami, FL' by Civica Architect, dated stamped received 5/21/08 and consisting of 10 pages.

11. That the charter school use shall be limited to grades K-5 for a maximum of 500 students.

BE IT FURTHER RESOLVED, that Items #2 through 5 be and the same are hereby denied without prejudice under Section 33-311(A)(17).

BE IT FURTHER RESOLVED, that Item #6 be and the same is hereby denied without prejudice as an alternative non-use variance.

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 changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning and to issue all permits in accordance with the terms and conditions of this resolution.

THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED **this 17th day of July, 2008, 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. 08-7-CC-5
ej

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

By [redacted]
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 30TH DAY OF JULY, 2008.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Deputy Clerk's Name, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning 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-22-08 adopted by said Board of County Commissioners at its meeting held on the 17th day of July, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 30th day of July, 2008.

Earl Jones, Deputy Clerk (3230)
Miami-Dade County Department of Planning and Zoning

SEAL