

# *City of Lauderhill*

Special Exception Application No. 18-SE-016

Academic Solutions Academy, Inc.

Responses to City Commissioner Issues from the Meeting of November 26, 2018

## ***I. APPLICANT INFORMATION***

### PETITIONER

Building Hope Parkside Foundation

### STATUS OF PETITIONER

Business Owner and Operator

## ***II. BACKGROUND INFORMATION***

### Requested Action

The petitioner requests approval of a Special Exception Use Application to allow within the General Commercial (CG) zoning district an Education, Primary and Secondary, charter and private school use, for a Secondary Charter School at the site of 5 abutting undeveloped lots, with a combined 3.3 acres, located on the approximate 6600 block of W. Commercial Blvd, Lauderhill, Florida and identified by the following folio numbers; 494115140240, 494115140250, 494115140260, 494115140270, and 494115140280

Academic Solutions Academy (ASA) is an existing charter high School serving 273 students and operating in the City of Sunrise, Florida. ASA is proposing to relocate to the City of Lauderhill. They propose a 700 student charter high school to serve high-needs students, grades 9<sup>th</sup> through 12<sup>th</sup>. The school will operate in two, five hour academic shifts, there is be an hour separation between the end of each shift and beginning of the afternoon shift.

### Applicable Land Development Regulations & City Codes:

Article IV, Part 4, Section 4.4. Approval for Special Exception Uses.

Article III, Section 2.3. Allowable land uses.

Article IV, 4.3 B. Existing zoning provisions and uses.

### **III. SITE INFORMATION**

Location/Legal Description of lots from West to East

Lot 1 Commercial Blvd Shoppes No 2 B Lot 24 according to the plat thereof as recorded in Plat Book 107 Page 43 of the public record of Broward County Florida and more commonly known as Folio #494115140240

Lot 2 Commercial Blvd Shoppes No 2 B Lot 25 according to the plat thereof as recorded in Plat Book 107 Page 43 of the public record of Broward County Florida and more commonly known as Folio #494115140250

Lot 3 Commercial Blvd Shoppes No 2 B Lot 26 according to the plat thereof as recorded in Plat Book 107 Page 43 of the public record of Broward County Florida and more commonly known as Folio #494115140260

Lot 4 Commercial Blvd Shoppes No 2 B Lot 27 according to the plat thereof as recorded in Plat Book 107 Page 43 of the public record of Broward County Florida and more commonly known as Folio #494115140270

Lot 5 Commercial Blvd Shoppes No 2 B Lot 28 according to the plat thereof as recorded in Plat Book 107 Page 43 of the public record of Broward County Florida and more commonly known as Folio #494115140280

## **FIGURE 1**

**SITE: PROPOSED CHARTER HIGH SCHOOL**

**ACADEMIC SOLUTIONS ACADEMY, INC.**



The subject site is five existing undeveloped and wooded lots located on the approximate 6600 block of W. Commercial Blvd, West of NW 64<sup>th</sup> Avenue and East of N. University Drive. Each of the five lots is 29,000 square feet for a total area of 145,000 square feet or approximately 3.3 Acres. The site is located within the General Commercial (CG) zoning district. Figure 1 is an aerial photograph showing the general location of the properties in relation to the surrounding roadways and uses.

Land Use/Zoning:

Existing Land Use	Vacant Land
Future Land Use Designation	Commercial
Zoning Designation	General Commercial (CG)

Adjacent Designations:

	Existing Use	Future Designation	Zoning
North	W Commercial Blvd ROW then City of Tamarac, FL	W. Commercial Blvd ROW then City of Tamarac, FL	CG
South	Single Family Residential and Group Living Quarters	Low (5) residential	RS-4 and SRFO
East	Commercial	Commercial	CG
West	Commercial	Commercial	CG

#### ***IV. ZONING HISTORY***

Existing Special Exceptions

None

Violations

None.

Existing Variances

None

#### ***V. PLANNING ANALYSIS***

As stipulated in the Land Development Regulations, Article IV, Section 4.6 Standards for Approval, the Planning and Development Division has reviewed the proposed request pursuant to the following special exception considerations:

1. The effect of such use on surrounding properties.
2. The suitability of the use in regard to its location, site characteristics, and intended purpose.
3. Access, traffic generation and road capacities.
4. Economic benefits or liabilities.
5. Demands on utilities, community facilities, and public services.
6. Compliance with the Comprehensive Land Use Plans for Broward County and/or the City of Lauderhill.
7. Factors relating to safety, health, and general public welfare.

1. **The effect of such use on surrounding properties:** The subject sites are bounded to the West and East by Commercially zoned sites developed for commercial uses and designated commercial on the City's Future Land Use map. The North boundary is West Commercial Blvd, a heavily traveled

thoroughfare. The southern side of the site borders two zoning districts. Towards the eastern side of the southern boundary the site abuts a single family residential zoning district and toward the western end of the southern boundary the site abuts a Special Residential Facility Overlay zone. There are potential adverse impacts of having a high school use abutting a low density residential neighborhood, to include the noise. Development of the site will require the addition of an 8' masonry wall with a landscaped strip which will provide a buffer between the school site and the residentially zoned property. This buffer will help mitigate the noise produced by a school use.

Staff concludes that as it pertains to the effect of the use on surrounding properties, this application is **in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

- 2. The suitability of the use in regard to its location, site characteristics, and intended purpose and access:** The subject site is made up of 5 lots which combined measure approximately 3.3 acres. The site is made up of 5 heavily wooded adjacent vacant lots. The LDR ART III SEC 5.48 provides that the minimum site size requirement for an Educational, Primary or Secondary, Charter or Private use is 1 acre. The subject site meets this requirement. The development of these lots will require Site Plan approval from the City of Lauderhill prior to development. The applicant will be responsible for the legal removal and mitigation of trees on the site prior to site plan approval.

According to the application, the large majority (97%) of Academic Solutions Academy students shall ride public transit to and from school. The subject site is located on a major transit corridor which provides access to public transportation.

There are existing Broward County bus shelters located on W. Commercial Blvd. adjacent to the subject site as well as across the street on the North side of W. Commercial Blvd. Staff has identified the safe passage of student pedestrians who use the bus stop on the North side of Commercial Blvd and need to travel to the school site on the south side of W. Commercial BLVD as an issue of nonconformance as it pertains to suitability of location.

Staff concludes that as it pertains to the suitability of the use in regard to its location, site characteristics, and intended purpose and access, this application is **not in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

Update:

#### **Pedestrian Safety:**

The applicant has provided a Transit Management Plan. They have satisfactorily addressed staff's review comments. The plan and responses are attached. The report was forwarded to the Police Department for their input.

The Police Department, Chief Allen Siegel and Major William Gordon reviewed the schools Transit Management Plan at the proposed site of the school.

*I have reviewed the revised traffic management plan for ASA. There will be one Traffic/Student Monitor stationed at NW 64 Avenue and West Commercial Blvd. This person will facilitate crossing students at that intersection. A second Traffic Student Monitor will be stationed out in front of the school to facilitate the movement of students utilizing eastbound buses to the school. Only the bus stops east of the school (south side of Commercial Blvd.) will be authorized for the students to use. The bus stop west of the school is not authorized for student use. They will also be there to prevent student jaywalking from the north side of Commercial Blvd to the south side towards the school. The School Security Officer will also be positioned outside the school and will be able to assist the Traffic Monitors as necessary. Should there be an influx of students, additional staff will be deployed to assist the Monitors and Security Officer.*

*As of now, I find the plan to be adequate in addressing the safety issues of students using public transportation. Once the plan is implemented, Traffic Officers can observe the effectiveness of the traffic plan.*

*Major William L. Gordon*

Staff concludes that as it pertains to the suitability of the use in regard to its location, site characteristics, and intended purpose and access, this application is **in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

- 3. Access, traffic generation and road capacities:** The applicant contracted with Langan Engineering and Environmental Services to provide a traffic operations analysis for the areas that would be affected by the construction of a school and the traffic generated by such. According to the applicant's study the proposed school would not cause adverse impacts to traffic on W. Commercial BLVD.

Based on the information provided by the applicant, 97% of the student body ride the bus. Therefore, additional vehicular traffic to this site will generally be limited to employee cars. Access to the site is existing. There is an existing access and driveway located on the two eastern most lots. This existing driveway runs through the two lots and curves west to provide access to the property to the west of the subject site, The Children's Services of Broward County property located at 6600 W. Commercial Blvd. Additional access to the site from W. Commercial Blvd is not being proposed however, any proposals for additional access to W. Commercial Blvd via the Site Plan application will be subject to review and approval by Broward County DOT as well the City of Lauderhill Engineering department prior to being recommended for review by the Lauderhill Planning and Zoning Board.

Staff concludes that as it pertains to access, traffic generation, and road capacities, this application is **in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

**Update:**

**Traffic Issue:** FDOT is reviewing the Site Plan and consultant's Traffic Study. They have initially indicated the requirement to build an east bound deceleration lane for a right-in to the school. This is a design issue relative to the Site Plan application under review by DRC.

Staff concludes that as it pertains to access, traffic generation, and road capacities, this application is **in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

- 4. Economic benefits or liabilities:** The Division concludes that the proposed charter school generates both economic liabilities and economic benefits. Specifically, the creation of jobs as the school will employ between 19 and 34 staff members, some of those employees will be existing, some will be newly hired. In addition to the economic benefits created by new jobs, the collection of a one-time development order and permit fees at the time of site development also create economic benefits. However, the proposed school use is a not for profit and therefore the sites will be removed from the tax rolls if they are acquired and developed for the proposed use. As such Staff concludes the economic liabilities outweigh the economic benefits created by the proposed use.

Staff concludes that as it pertains to economic benefits and liabilities, this application is **not in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

Update:

**Financial effect of a non-profit organizational use to the City's tax base:**

The City Manager stated City staff needed more time to explore ways for non-profits to share the cost of that loss of revenue estimated to be \$500,000 to \$1 million.

Finance is reviewing a PILOT program for the payment in lieu on an annual basis over a number of years. Also, the applicant shall provide a draft proposal for a PILOT program for the City's review. Finance will present their findings once they have completed the analysis and discussed the findings with the City Manager.

This issue could be considered a condition of approval tied to the release of the Building Permit.

Staff concludes that as it pertains to economic benefits and liabilities, this application is **not in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use. However, this issue could be considered a **condition of approval** tied to the release of the Building Permit.

- 5. Demands on utilities, community facilities, and public services:** The five subject parcels are currently in an undeveloped and wooded state. Development of this approximately 3.3 acre site will create demand on utilities and public services. Staff does not anticipate any additional

demand on Community Facilities as the recreation uses associated with a school will be accommodate on site.

Staff concludes that as it pertains to demands on utilities, community facilities, and public services, this application is **in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

**6. Compliance with the Comprehensive Land Use Plans for Broward County and/or the City of Lauderhill:** This five parcel site is designated Commercial on the City's Future Land Use Map Series (FLUMS) and the Future Broward County Land Use Plan Map. Thus, staff concludes that as it pertains to compliance with the comprehensive land use plans for Broward County and/or the City of Lauderhill, this application is **in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

**7. Factors relating to safety, health, and general public welfare:** The subject site abuts two zoning districts to the south, Residential Single Family at 4 dwelling unit per acre (RS-4) and Special Residential Facility Overlay (SRFO). Site development for a Secondary School use presents the potential to cause a noise disturbance as it relates to the abutting residential property. Staff concludes that through Special Exception Use conditions as well as through the required development of an 8' masonry wall with landscape buffer, any adverse impacts of the school use on the abutting residential neighborhood can be substantially mitigated.

W. Commercial Blvd is a heavily traveled arterial roadway with three east bound lanes and three west bound lanes. The majority (97%) of ASA students shall take public buses to transport to and from school each day. Public transit stops are located in the immediate area however, students traveling to school west bound via public transportation will be dropped off on the North side of W. Commercial Blvd. and will need to walk to the school site. Staff has identified a concern for safe pedestrian travel from the North side of W. Commercial Blvd to the school site.

Staff concludes that as it pertains to factors relating to safety, health, and general public welfare, this application is **not in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

Update:

**Police Department Service Calls:**

Police service calls and crash data indicate that there was not any significant activity based on the presence of the school. See Attached from Deputy Chief Siegel.

*"A review of the information provided by each city would demonstrate that the police service calls and crash data are consistent with information given by Academic Solutions. This would indicate that there was not any significant activity based on the presence of the school. I would have to place a side note regarding their Commercial Boulevard location. This is an office building that has other occupants. Therefore, a true determination of activity based solely on the school could not be specifically determined."*



Staff concludes that as it pertains to factors relating to safety, health, and general public welfare, this application is **in conformance** with LDR ART IV, 4.0 Section 4.6., standards for approval of a special exception use.

Based upon its review, staff finds the proposed use of an Education, Secondary, Charter School is consistent with the above considerations. As such, staff recommends **approval** of the special exception request.

## **VI. FINDINGS AND CONCLUSIONS**

A. Background. The petitioner requests approval of a Special Exception Use Application to allow within the General Commercial (CG) zoning district an Education, Primary and Secondary, charter and private school use, for a Secondary Charter School at the site of 5 abutting undeveloped lots, with a combined 3.3 acres. Academic Solutions Academy (ASA) is an existing charter high School serving 273 students and operating in the City of Sunrise, Florida. ASA is proposing to relocate to the City of Lauderhill.

B. Zoning District Consistency. The Land Development Regulations (LDR) provides that within the CG zoning district, Education, Secondary, Charter school is a special exception use. The Applicant has filed with the Division a special exception use application to operate the proposed use.

C. Subject Matter Jurisdiction. The LDR empowers the City Commission to make the final determination on a special exception use application. The LDR also provides standards for the City Commission to consider when making a final determination on a special exception use applications.

D. Comprehensive Plan Consistency. The site is designated commercial on the Future Land Use Map Series and General Commercial (CG) zoning district is a zoning district consistent with and intended to implement the Future Land Use Map Series designation.

E. Applicable Land Development Regulation Provisions. The LDR provisions governing the issuance of a special exception use development order for a charter: Article III., Part 4.0., Section 4.5., which addresses special exception use application requirements; Article IV., Part 4.0., Section 4.6., which are standards to be considered in making a special exception use application determination; Article III., Part 2.0., Sections 2.3 and 2.4 and Schedule B on permitted and special exception uses; and Article IV., Part 4.0, Section 4.9 on notice of hearing procedures.

F. Application Conformance with Special Exception Use Requirements. The Division has reviewed the special exception use application for the proposed use for conformance with the applicable LDR standards and requirements. The Division finds and concludes that based on the totality of the circumstances, the special exception use application is **not** in conformance with various LDR standards of approval.

G. Public Notification. The Division has provided to all property owners within 300 feet of the subject property written notice of the public hearing by regular mail. The City Clerk or Division has posted notice

of the public hearing at City Hall before the City Commission hearing on the special exception use application. In addition, the Division has on file a picture showing the notice of the hearing has been posted on the property and an affidavit stating the property will remain posted through the application process.

## ***VII ALTERNATIVE/ACTION***

LDR Article IV., Development Review Requirements, Part 4.0., Special Exception Uses, Subsection 4.5.A., requires the City Commission to review the application and make its determination to:

- A. That the application is **in compliance** with the LDR applicable standards and minimum requirements or that vested rights exist with regard to any non-compliance and that a development order is issued granting approval of the application.
- B. That the application is **not in compliance** with the LDR applicable standards and minimum requirements and that a development order not be issued approving the application. If the City Commission selects this alternative, then the Division recommends the following findings and conclusions be adopted:
  - 1. The conclusion the application is not in conformance with LDR with Article IV., Part 4.0., Section 4.6., Standards for approval, on suitability of the use with regard to its location, site characteristics, and intended purpose. The proposed uses, a charter high school with the majority of the students riding public transit in a location where no infrastructure exists to safely transport student pedestrians across W. Commercial BLVD could cause adverse impacts to the student, staff and general public.
  - 2. The conclusion the application is not in conformance with LDR Article IV., Part 4.0., Section 4.6., Standards for approval, on factors relating to safety, health, and general public welfare. Based on the lack of infrastructure on W. Commercial Blvd to safely transport students from public transit stops on the North side of W. Commercial Blvd to the school site on the South side of W. Commercial BLVD
  - 3. The conclusion the application is not in conformance with LDR Article IV., Part 4.0., Section 4.6., Standards for approval, on factors relating to economic benefits and liabilities.
  - 4. The conclusion that based on the totality of the circumstances, the above described nonconforming factors outweighs the conforming factors, and therefore, the application is **not in conformance** with LDR Article IV., Part 4.0., Section 4.6., Standards for approval.
- C. That the application is **not in compliance** with the LDR applicable standards and minimum requirements but conditions have been determined to be reasonably necessary to ensure compliance with the LDR applicable standards and minimum requirements. If the City Commission selects this alternative, then the Division recommends the following conditions be imposed:  
**Updated:**
  - 1. This special exception use development order for a charter secondary school, 9<sup>th</sup> to 12<sup>th</sup> Grade, use is specifically granted to Building Hope Parkside Foundation, as Owner and Academic Solutions Academy, Inc., as Operator and such development order cannot be sold, assigned, transferred or otherwise conveyed to other entities or persons without City

- Commission review and approval pursuant to the criteria for special exception uses. Any change of corporate ownership of Owner or Operator affecting 51% percent or more of the interest of the business or any of its assets in any manner shall trigger this provision; provided, however, this limitation does not apply to a mortgagee in the event of foreclosure. Further, this special exception use development order shall automatically expire and become null and void if any of the uses cease to operate for three or more consecutive months.
2. The maximum number of students to be served is restricted to 700 students, the maximum number of students to be served per each five hour academic shift is 350 students, unless the Fire Rescue Division determines that the maximum occupancy load should be less.
  3. The general days and hours of operation are Monday through Friday from 7:00 a.m. to 6:00 p.m. Any increase in either the general days or hours of operation or both is prohibited and shall be unlawful unless the City Commission amends this development order to allow such increase.
  4. Before a local business tax receipt is issued, the approval of a site development plan to include approval of a tree removal and mitigation plan must be obtained
  5. Before the approval of a site development plan is issued the approval of a management plan by planning staff is required to address public transit riders using bus stops on the North side of W. Commercial Blvd to safely travel to the school site located on the South side of W. Commercial Blvd. Considerations to include, school speed zone and management by school staff. Furthermore, the applicant must engage FDOT to ascertain the feasibility of a crosswalk for transit riding students traveling westbound.
  6. The inventory of equipment and fixtures to be used on the premises shall be, at a minimum, those required by the School Board.
  7. Subsequent to occupancy, if the Code Enforcement Division or Police Division receives three or more complaints against the uses within any one year period and such complaints are affirmed by the Code Enforcement Board, the City Commission may hold a duly noticed public to review the special exception uses and may add, modify, suspend or revoke any conditions of approval or the development order.
  - ~~8. This special exception use development order shall be effective until November 26<sup>th</sup>, 2023 and shall then expire. The development order may be renewed for subsequent five-year periods.~~
  9. If any of the uses requires as part of its operations Police Division Services, Academic Solutions Academy, Inc (ASA) shall be responsible for reimbursing the City for all such costs.
  10. The City shall not issue or renew a local business tax receipt unless the local business tax receipt application includes evidence that a state license or similarly applicable document has been granted and is valid and unless a copy of an effective Emergency Management Plan is filed with the Fire Rescue Division. In addition, the Fire Rescue Division shall be provided by certified mail with a copy of any amendment to the Emergency Management Plan within 10-business days of the adoption of such amendment.
  11. Any violation of these conditions of approval may result in a public hearing before the City Commission and may result in the modification, suspension or revocation of this special exception use development order or its conditions or both.

- D. That the application be tabled for up to six months because the City Commission finds that available information is insufficient on which to base either approval or denial of the application and that a study is conducted to provide the City Commission with information sufficient to form a basis on which to approve or deny the application.

## ***VIII RECOMMENDED ACTION***

- A. City Commission Action. The City Commission is scheduled to consider the special exception use application at its duly noticed November 26, 2018 regular public hearing.
- B. Division recommendation. The Planning and Zoning Division recommends the City Commission **adopt** a resolution granting to Building Hope Parkside Foundation on behalf of Academic Solutions Academy, Inc to allow an Education, Secondary, Charter school use on a 3.3± acre site zoned General Commercial (CG) district.

## **VII. ATTACHMENTS**

Attachment A: Application  
Attachment B: Organizational Chart  
Attachment C: Five Year Staffing Projection  
Attachment D: Traffic Analysis  
Attachment E: Authorization from the property owner

Attachment F: Transit Riders Management Plan  
Attachment G: Transit Riders Management Plan-Response to Issues  
Attachment H: Minutes of the City Commission meeting of November 26, 2018  
Attachment I: Police Department Data  
Attachment J: Bus Stop Exhibit  
Attachment K: Police Department review of Transit Rider Management Plan  
Attachment L: SEU conditions Affidavit

Updated: Stephen Tawes, RLA, ASLA, CLARB  
City Planner  
February 12, 2019  
Prepared by: Molly Howson, Associate Planner

Date: November 9, 2018