

# *City of Lauderhill*

Special Exception Application No. 19-SE-010

SunFire Academy of Oakland Park, Inc. D/B/A SunFire High School

## **I. APPLICANT INFORMATION**

### PETITIONER

Philip Neiss

### STATUS OF PETITIONER

School Operator

## **II. BACKGROUND INFORMATION**

### Requested Action

The Applicant, Sunfire High School, is requesting approval of a Special Exception Use to allow within the General Commercial (CG) zoning district an Education, Secondary, charter and private school use, for a 11,763 square foot charter secondary school on an approximate 1.38 acre site legally described as Lots 8 and 9, Block 2, Boulevard Shoppes No. 2., according to the plat thereof, as recorded in Plat Book 106, Page 37 of the public records of Broward County, Florida, and more commonly known as 4800 N. University Drive, Lauderhill, FL and identified by the following folio #4941 15 12 0160.

Sunfire High School is a Charter School focused on providing education to high-needs students, grades 9<sup>th</sup> through 12<sup>th</sup> and is currently operating a location within the City of Oakland Park.

Sunfire High School intends to operate with a total of 350 students and a total of 12 employees (with a potential to grow to 20) in their new location at 4800 N. University Drive, Lauderhill, FL. The school will operate in two academic shifts with 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

Lots 8 and 9, Block 2, Boulevard Shoppes No. 2., according to the plat thereof, as recorded in Plat Book 106, Page 37 of the public records of Broward County, Florida, and more commonly known as 4800 N. University Drive, Lauderhill, FL and identified by the following folio #4941 15 12 0160.

**FIGURE 1**  
**SITE: PROPOSED CHARTER HIGH SCHOOL**  
**SUNFIRE HIGH SCHOOL**



The subject site (approximately 1.38 acres) is developed with a one story, 11,763 square foot, building along with a surface parking lot. The subject site is fronted by North University Drive along the Western property line, is bordered by a canal along the North and East property lines, and is located approximately 140 feet north of NW 47 Street as shown in Figure 1 above.

Land Use/Zoning:

Existing Land Use	Developed with an unoccupied 11,763 square foot building formally occupied by North University High School from 2008-2018
Future Land Use Designation	Commercial
Zoning Designation	General Commercial (CG)

Adjacent Designations:

	Existing Use	Future Designation	Zoning
North	Canal	Commercial/ Low (5) Residential	PO
South	Multi-Tenant Commercial Building	Commercial	CG
East	Canal	Commercial/ Low (5) Residential	PO
West	Multi-Tenant Commercial Building	Commercial	CG

**IV. ZONING HISTORY**

Existing Special Exceptions

08R-06-161 – Special Exception to Allow a Charter Secondary School within the General Commercial Zoning District.

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 site is bounded to the North, South, and West by Commercially zoned properties developed for commercial uses and designated commercial on the City's Future Land Use Map. To the East of the property, there are single family uses with a land use of Low (5) Residential. There are concerns with possible loitering to the surrounding commercial plazas immediately abutting the subject site and also noise pollution to the Single Family Residences east of the Subject Site. North University High School (the previous operator) received numerous Nuisance calls from 2008-2018 from the surrounding shopping plazas.

Staff concludes that as it pertains to the effect of the use on surrounding properties, this application is **not 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:**

*Location:*

Although the property is located along a collector or arterial roadway and served by public transit, there are concerns with students crossing University Drive directly in front of the site, where there are no Traffic Control Devices, no Cross Walk, and 6 lanes of 45+ MPH vehicle traffic. There are added concerns with the proximity to the surrounding commercial plazas with the last operator of the property generated nuisance calls due to prior students loitering and harassing the surrounding businesses.

The Planning and Zoning Division concludes that the project **does not** comply with the suitability of the use in regards to the location.

Site Characteristics:

Pursuant Article III Section 5.48.2. Site requirements - The following minimum standards shall apply:

- A. Separation standard. Public, charter, and private primary and secondary schools shall be separated between and among each other by a minimum distance of one thousand (1,000)

lineal feet between as measured by the nearest point on any plots to be occupied by such land uses.

The **project complies** as there are no schools within 1,000 linear feet from the subject site.

- B. Lot size. The plot shall have a minimum size of one (1) acre.

The subject site is made up of 2 platted lots which combined measure approximately 1.38 acres. The site is improved with a single story building consisting of 11,763 square feet and 76 parking spaces. The LDR ART III SEC 5.48.B provides that the minimum site size requirement for an Educational, Primary or Secondary, Charter or Private use is 1 acre and therefore the **project complies**.

- C. Building requirements. If located on property with a single building, the school must occupy the entire freestanding building. If located within a shopping center or office building, the school may not occupy a ground floor; however, existing schools occupying a ground floor shall be considered a legal, nonconforming use subject to the nonconforming use provisions in Schedule H.

The **project complies** as it will be located in an existing building and occupy the entire building.

- D. Barrier. If the site abuts a canal or other water body, a minimum eight (8) feet high fence shall be installed along the property line abutting the water body in order to protect the students.

The project **does not comply** with said requirement. An eight (8) foot high wall shall be installed along the property lines butting the existing canal around the property in order to protect the students should the Special Exception be approved for the Charter School use.

- E. Site plan requirements. A Certificate of Use shall not be issued until a site plan or site plan modification is approved consistent with these Land Development Regulations and consistent with the State Requirements for Educational Facilities (SREF) 2014 (or latest edition), as stated in the Florida Administrative Code. The Planning and Zoning Official may grant relief from these requirements under Article IV., Part 3.0., Sections 3.3 and 3.4 or based upon good cause. In addition, if the application is for a charter school, a copy of the site plan or site plan modification shall be provided to the School Board of Broward County, Florida staff for conformance with the applicable SREF.

The Applicant shall be required to comply with said requirement before the issuance of a Certificate of Use.

- F. Off-site improvements. If through the site plan or site plan modification process the City Engineer, Broward County or state transportation related agencies deem that off-site improvements are required, such as traffic signalization, signage, pedestrian and bicycle improvements, transit amenities, school crossings and zones, and turning lanes, such improvements and amenities must be constructed and approved before a Certificate of Use can be issued. At a minimum, the following factors shall be considered in determining the extent of the off-site improvements: 1. Whether the roadways provide adequate access and areas for safe bicycling and walking to the site; and 2. Whether median cuts, left and right turning lanes and storage lanes are available to facilitate access of buses, teachers, parents, students, and services; and 3. Whether school zone flasher installations are available in order to facilitate safe pedestrian access to the site; and 4. Whether the school site is connected to existing or planned residential developments by sidewalks, walkways, and crosswalks in order to facilitate safe pedestrian movement.

The Applicant shall be required to comply with said requirements before the issuance of a Certificate of Use.

#### 5.48.3. Physical environment requirements.

- A. Indoor space. All schools must have a minimum amount of usable indoor floor space for each student. Usable indoor floor space refers to space that is available for classrooms and shall be measured at floor level from interior walls. It does not include hallways and stairways, restroom facilities, kitchens, and offices. A floor plan shall be provided showing the following minimums per occupant: 1. Classrooms: Forty-four (44) net square feet for primary schools and thirty-two (32) net square feet for secondary schools; 2. Dining area (excluding kitchen and storage area): Forty (40) net square feet and twenty-five (25) percent school capacity, but a phasing plan based on ten-day enrollment may be provided until capacity is reached; 3. Administrative offices: One hundred (100) net square feet;

Additional space shall be provided for all other functions based upon the Florida Building Code or Fire Safety Code.

The Applicant shall comply with said requirement. If it is determined that the minimum square footage of usable indoor space is not suffice to serve the number of approved students (350 total students divided by two shifts) then, the maximum number of students approved by this Special Use Application shall be reduced to conform with said requirement.

- B. Outdoor space. A minimum forty-five (45) square feet of outdoor space shall be provided per student. Such space preferably shall be located on-site.

The proposed Charter School **does not comply** with this requirement as not outdoor space is anticipated.

- C. Drop-off/pick-up area. A student drop-off and pick-up area shall be depicted on the site plan, which area shall be consistent with the "Safe Routes to School Guide, Student Drop-off and Pick-up", which guide was developed by the Pedestrian and Bicycle Information Center.

According to the Applicant, there are no drop off/pick up areas. The school is for high school age and older. Vehicles will park to let students off as needed, they may drive themselves or use transit. Two thirds of the students will be taking public transportation to and from school.

The project **does not conform** to with the provisions mentioned above and will be required to comply should the Special Exception get approved by the City Commission.

Intended Purpose:

The Planning and Zoning Division concludes that a Charter Secondary School Use is primarily characterized as a Community Facility Use and not a Commercial Use. A secondary school use primarily serves the community and not large sections of the City and the metropolitan area. Pursuant Article III Section 3.6.1.A.1, one of the intents of the Community Facility Zoning District is "to provide locations for public, semi-public, and private uses and activities that benefit and service the community, such as civic and cultural facilities, educational facilities, governmental facilities, medical and veterinarian facilities, public assembly facilities and religious facilities". As such, the Planning and Zoning Division concludes that the most suitable zoning district for the proposed charter school is the Community Facility zoning district.

Staff concludes that as it pertains to the suitability of the use in regard to its location, site characteristics, and intended purpose, this application is **not 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 provided a Traffic Impact Study prepared by KEITH and still have pending concerns to be addressed and not complied with. According to the applicant's study the proposed school would not cause adverse impacts to traffic on North University Drive.

As previously mentioned, the subject site is located on a major transit corridor with one right-turn in and one right-turn out from North University Drive (only frontage), has a shared access from the Commercial Property to the South, and also provides access to public transportation.

The City of Lauderhill contracted McMahon Associates, Inc. as their traffic consultant to review the Traffic Impact Study provided by the Applicant. McMahon Associates, Inc. provided KEITH the following comments to be addressed as part of the Special Exception Application:

*“Traffic Impact Study*

*Comment 1: Please provide an analysis for the full median opening located approximately 200 feet south of the proposed school, as this provides access to the school and a large shopping center. Data collection and analysis should be performed for AM, midday, and PM peak periods. The midday peak period should coincide with the dismissal time of the morning shift and the arrival of the afternoon shift for the proposed school. Field observations should be performed during the data collection periods to assess the adequacy of the existing southbound left turn storage for existing and future traffic conditions.*

*Keith Response: This data was not requested by the City in the methodology discussion. Only the two (2) nearby intersections were requested to be analyzed during the AM and PM Peak Hours. As mentioned in the first submittal, the proposed school will occupy the existing building previously occupied by North University High School, a similar type school. There are no planned changes to the site. The parking and access will remain the same.*

*Comment 1 (01/21/2020): The comment was not addressed. Analysis is required of the full median located approximately 200 feet south of the proposed school.*

*Comment 2: Please review the pedestrian equipment (pedestrian push buttons, signal heads, truncated ADA compliant domes, etc.) and pedestrian clearance times at the intersections of University Drive/NW 50th Street and University Drive/NW 44th Street. This information should be included in the report. Please coordinate with Broward County or the appropriate agency on any necessary upgrades or signal timing changes.*

*Keith Response: There are no proposed changes to the existing signals. All operational requirements and equipment are determined and serviced by Broward County Traffic Engineering Division. The signal information has been previously provided.*

*Comment 2 (01/21/2020): The comment was not addressed. Given that the school is anticipating a high number of students to walk, bike or use transit to school, we are requesting a review of the pedestrian equipment at the intersections expected to be used by the future students. This information should be documented in the report. If upgrades or signal timing changes are needed, the Applicant should coordinate with Broward County. We understand that the actual changes, if needed, will most likely be performed by Broward County.*

*Comment 3: Include a section in the report discussing internal traffic circulation within the site, location of pick-up/drop-off areas, and the available vehicular stacking that is being provided for the pick- up/drop-off areas. Please provide a graphic showing the pick-up/drop-off circulation.*

*Keith Response: There are no drop off/pick up areas. The school is for high school age and older. Vehicles will park to let students off as needed, they may drive themselves or use transit.*

*Comment 3 (01/21/2020): Please document this information in the traffic study.*

*Comment 4: Include a section in the report discussing parking supply and expected parking demand for both teachers and students to ensure that adequate parking is being provided on-site.*

*Keith Response: As mentioned in the first submittal, the proposed school will occupy the existing building previously occupied by North University High School, a similar type school. There are no planned changes to the site. The parking and access will remain the same.*

*Comment 4 (01/21/2020): The comment was not addressed. Please include in the traffic study the number of parking provided on-site, as well as the required parking for the school to ensure that the site will provide sufficient parking for the proposed use.*

*Comment 5: Include a turn lane evaluation section in the report that evaluates the need for a northbound right turn lane at the site, or the extension of the existing southbound left turn lane at the full median opening according to applicable standards.*

*Keith Response: This data was not requested by the City in the methodology discussion. Only the two (2) nearby intersections were requested to be analyzed during the AM and PM Peak Hours. As mentioned in the first submittal, the proposed school will occupy the existing building previously occupied by North University High School, a similar type school. There are no planned changes to the site. The parking and access will remain the same.*

*Comment 5 (01/21/2020): The comment is not addressed. Please include the requested information in the traffic study.*

*Comment 6: Please confirm that there are no dedicated school buses for this school. If school buses are being provided, please indicate the drop-off/pick-up locations within the site.*

*Keith Response: There are no school buses dedicated for this school.*

*Comment 6 (01/21/2020): Comment addressed.*

*Comment 7: Please provide bell times for arrival and dismissal of both school shifts.*

*Keith Response: The shift times are determined by the school, one in the morning and one in the afternoon. There are no bells for arrival or dismissal.*

*Comment 7 (01/21/2020): Comment not addressed. The traffic study was prepared under the assumption that the school shifts would not overlap. Based on shift times provided in the Transit Rider Management Plan, the dismissal for the morning shift and the arrival of the afternoon shift appear to coincide within*

*the same hour. If this is the case, the analysis should be prepared for the midday peak accounting for both shifts. Please provide the expected shift times for each school shift.*

*Comment 8: The peak hour factors (PHF) on the Synchro output sheets are different from the PHF shown on the count sheets. Please review and revise accordingly.*

*Keith Response: The peak hour factor in the counts is by approach, Synchro is done by intersection. The PHF was calculated for each intersection for both AM and PM Peak Hours.*

*Comment 8 (01/21/2020): Comment not addressed. The PHFs for the intersection at University Drive at NW 50th Street (AM and PM) and the PHF for the intersection of University Drive at NW 44th Street (PM) were not calculated correctly. Please revise.*

*Comment 9: Heavy Vehicle percentages are not shown on the Synchro output sheets or the data collection sheets. Please provide that information on the data collection sheets and provide the output sheets from Synchro with that information.*

*Keith Response: The Heavy Vehicle Factor is shown in the Synchro reports.*

*Comment 9 (01/21/2020): While the Synchro reports show the heavy vehicle factor, the data collection sheets do not show the values. Therefore, the heavy vehicle factors could not be verified.*

*Comment 10: The information for Minimum Initial/Green, Vehicle Extension, Recall Mode, Flash Don't Walk/Ped Clearance, and Offset on the Synchro output sheets do not match signal timings. Please revise accordingly.*

*Keith Response: Synchro output sheets were reviewed and updated to match the signal timings.*

*Comment 10 (01/21/2020): For the University Drive/NW 44th Street intersection, the offset does not match the signal timings during the PM peak hour. Please revise accordingly.*

*Comment 11: Please verify that the lead/lag phasing on all Synchro output sheets is correct. Please refer to the "Sequence of Operation" sheet in the signal timings and provide in the appendix.*

*Keith Response: Synchro output sheets were updated to match the signal timings.*

*Comment 11 (01/21/2020): The signal timings in Synchro appear to have been revised. Please provide the SOP sheet from Broward County to verify the signal timing sequence in Synchro.*

*Comment 12: On the Synchro output sheets for the University Drive/NW 44th Street intersection, please review and correct the total splits accordingly.*

*Keith Response: Synchro output sheets were updated to match the signal timings.*

*Comment 12 (01/21/2020): Comment addressed.*

*Comment 13: Please provide page 3 of the Synchro output sheets for the PM Peak Hour- Future with Project at the intersection of University Drive and NW 44th Street.*

*Keith Response: Page 3 was included in the first submittal; however, Synchro output sheets were updated to match the signal timings and Page 3 was also updated and reincluded in this submittal.*

*Comment 13 (01/21/2020): Comment addressed. However, the 2020 Background Traffic Conditions – PM Peak sheets are missing for the University Drive/NW 50th Street intersection. Please provide.*

*Comment 14: The speed limit on NW 44th Street, west of University Drive, is 35 miles per hour (MPH) according to Google Earth. Please field verify and revise the analysis and report accordingly.*

*Keith Response: The speed limit west of University Drive is 30 MPH and east of University Drive is 35 mph. Speed limit was updated to 35 miles per hour (MPH) per the comment.*

*Comment 14 (01/21/2020): Based on the provided speed limit information, the eastbound approach speed should be 30 MPH, not 35 MPH. Please revise accordingly.*

#### *Transit Rider Management Plan*

*Comment 15: Section II states “approximately two-thirds of students arriving and departing the Property will be doing so via public transportation”. Please explain how this percentage was determined or consider revising the statement to “a portion of students” instead of “two-thirds of students”.*

*Keith Response: This comment is from the Transit Rider Management Plan which is not part of the Traffic Impact Study.*

*Comment 15 (01/21/2020): Comment not addressed. Please provide the requested information.*

*Comment 16: The traffic impact study refers to 4800 N. University Drive as the proposed school location and the Transit Rider Management plan refers to 4938 N. University Drive as the proposed school location. Please confirm correct address and revise accordingly.*

*Keith Response: This comment is from the Transit Rider Management Plan which is not part of the Traffic Impact Study.*

*Comment 16 (01/21/2020): Comment not addressed. Please provide the requested information.*

*Comment 17: Additional staff members should be located at the intersection of University Drive and NW 44th Street to assist students crossing at this location to access the southbound bus stop referenced in the report.*

*Keith Response: This comment is from the Transit Rider Management Plan which is not part of the Traffic Impact Study.*

*Comment 17 (01/21/2020): Comment not addressed. Please provide the requested information.”*

As shown in transcript above, there are many pending traffic concerns that need to be addressed as part of this Special Exception Application. Should the City Commission decide to approve this application, the applicant will have to provide requested information and conform to all conditions of approval Established by the City of Lauderhill’s Traffic Consultant.

The Police Department, Chief Allen Siegel and Lieutenant Joseph Soren reviewed the schools Traffic Impact Study at the proposed site of the school.

*“A review of crash data for the past 5 years resulted in finding 37 crashes on University Drive near the site. Attached is a spread sheet with more detailed data, none of them appear to involve any pedestrians. Also attached is a map of the crashes on University drive for the same time frame. There are 2 crashes west of University Drive that were removed from the spread sheet as they are further away from the site.*

*One of the significant issues we experienced with the former charter school was students crossing University Drive directly in front of the site, where there are no Traffic Control Devices, no Cross Walk, and as you know 6 lanes of 45+ MPH vehicle traffic. We received complaints about this and conducted education and enforcement several years ago, until the state installed pedestrian warning signs, which made students believe they had the right to cross at this location. In conversation with the FDOT Rep. they believed that it was best to have the signs as crossing was going to happen regardless of enforcement actions, and refused to have the signs removed.*

*I also recall issues at the school about fights, inside and outside of the school, and numerous reports about students (unknown if from Piper or this site) entering nearby businesses, harassing customers/employees, and stealing items.”*

-Lieutenant Joseph Soren

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

- 4. Economic benefits or liabilities:** Although the school will employ between 12 and 20 staff members to help stimulate the local economy, the applicant has also submitted an Agreement to purchase contract in which the economic liability is the potential for the school to purchase the property and file for tax exempt status.

Should the proposed Special Exception for a Charter School Use be approved for the subject site, Sunfire Highschool shall then pay equal to the value of the real estate taxes lost due to its tax exempt status on a year to year basis.

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.

- 5. Demands on utilities, community facilities, and public services:**

The proposed project consist of an existing building which operated before as a Charter School from 2008-2018. The proposed project will continue to use the same level of utilities as before.

The proposed Charter School does not anticipate the necessity for the usage of community facilities as the Applicant states that there is enough greenspace on site. The project will then need to provide a minimum forty-five (45) square feet of outdoor space shall be provided per student. Such space preferably shall be located on-site.

The project will create a demand on public services as approximately 2/3 of the Student population will utilize public transit to get to and from the campus.

Staff concludes that as it pertains to demands on utilities, community facilities, and public services, this application is **not 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:** The subject 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 Planning and Zoning Division concludes that the inappropriate operation of a charter secondary school use can adversely impact the public safety, health and general welfare unless such impacts are substantially mitigated.

The Planning and Zoning Division finds that charter secondary school use cannot be operated unless the appropriate state license is acquired and maintained. Further, the Planning and Zoning Division finds the Land Development Regulations provide additional provisions on special exception uses and concludes that these provisions as amended shall be address and complied with.

As the old operator existed and operated before the Marjory Stoneman Douglas High School Public Safety Act, the new Charter School Operators will need to comply with all requirements dealing with Safety. There are pending concerns with the safety of the Staff and Students for the newly proposed Charter School, as such, the applicant was advised to provide proof of compliance with all the items stipulated in Section 1001.212, Florida Statutes and Section 1006.1493, Florida Statutes referring to the Florida Safe Schools Assessment Tool.

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 as there are pending materials to be submitted to the City of Lauderhill.

## ***VI. Specific Use Criteria***

The land development code requires additional criteria for Charter School Uses as stipulated in Article III Sec 5.48. - Education, primary and secondary, charter and private schools.

### 5.48.1. Application filing requirements.

In addition to the filing requirements for special exception use applications, the following additional information shall be provided for any proposed charter or private primary and secondary school:

A. Timing. In order to allow sufficient time to secure required development order, building permit, and business license approval, a special exception use application and fee must be filed with the Planning and Zoning Office at least nine (9) months before the start of the school year. This time requirement is not waivable.

The project **conforms** to this provision as the application was submitted at least nine (9) months before the school year.

B. Charter/accreditation. If a charter school, a copy of the School Board approved charter application and the charter agreement between the sponsor and the applicant shall be filed along with the application. If a private school, either a copy of approval from the applicable accrediting agency or a letter of acknowledgement that an application for accreditation has been filed.

The project **conforms** as a Charter accreditation letter was provided as part of this application.

C. Organizational structure. An organizational chart and explanation showing the hierarchical arrangement of lines of authority, communications, right and duties of the school organization.

The project **conforms** as an organization chart was provided as part of this application.

D. Affidavit. A list of the governing board members/Board of Directors, Officers, Administrators and all individuals with a financial interest in the school that will interact with students, along with affidavits from each stating whether or not that person was convicted of a crime within the last ten (10) years.

The project **conforms** as a list of the governing board members/Board of Directors, Officers, Administrators and all individuals with a financial interest in the school that will interact with students, along with affidavits from each stating whether or not that person was convicted of a crime within the last ten (10) years was provided as part of this application.

E. Financial responsibility. Evidence of financial responsibility, including at a minimum: 1.A one-year pro-forma statement showing revenues, expenditures, and net profit or loss;2.A bank account demonstrating sufficient financial resources to operate the facility for one (1) year;3.A two hundred fifty thousand dollar (\$250,000.00) surety bond or other type of credit, and4.The name, education, experience and qualifications of the person charged with financial management.

The applicant provided a one year pro-forma statement, a bank account demonstrating sufficient resources to operate the facility for one (1) year, and the required information for the person charged with the financial management of the proposed Charter School.

Upon approval of the special exception, a two hundred fifty thousand dollar (\$250,000.00) surety bond or other type of credit will be submitted to the City of Lauderhill as a Condition of approval before the Issuance of a Certificate of Use.

F. Prior history. Evidence of any prior history of financial interest, ownership, management, or operation of a charter or private school, including its financial and educational success or failure.

The project **conforms** as a statement was provided by the applicant as evidence of past History and education experience for both Mr. Phil Neiss (Director of Operations) and Ms. DeeEtte Naukana (Principal).

G. Prior jobs. Evidence of past job and education experience showing that the Governing Board/Board of Directors, Officers, Administrators, its employees and any consultants (e.g., internal auditor, management company) are qualified to operate the school.

The project **conforms** as a statement was provided by the applicant as evidence of prior jobs for all applicable Governing Board/Board of Directors, Officers, Administrators, its employees and any consultants.

H. Use. Evidence of legal use of the property in question by applicant through a deed, contract or option to purchase or lease.

The project **conforms** as a Contract to purchase was submitted as part of this application.

I. Emergency management plan. A conceptual site plan showing where the students would congregate in the event of a fire. In addition, if a disaster should render the building uninhabitable, a plan showing how students would be accommodated elsewhere until the building is repaired and made habitable.

The project **conforms** as an Emergency Management plan was presented in the form of a narrative as part of this application.

J. Ingress/Egress. A conceptual site plan showing the ingress and egress of pedestrians and all vehicles from the school site, and safety features necessary to protect the students on and within one thousand (1,000) lineal feet of the school site boundaries and a narrative explaining how student safety and off-premises private property rights will be assured at least thirty (30) minutes before and at least forty-five (45) minutes after the school hours of operation.

The Applicant provided a narrative to address student safety and dismissal times. Although the site is existing, a site plan will need to be submitted and approved through the site plan modification process as a condition of approval for the special exception application.

K. Other. Any other documentation or requirements that the Planning and Zoning Office deems relevant to the operation of such use or safety of the students or both.

In addition to the requirements within the City of Lauderhill's Land Development Code, the applicant was advised to provide proof of compliance with all the items stipulated in Section 1001.212, Florida Statutes and Section 1006.1493, Florida Statutes referring to the Florida Safe Schools Assessment Tool.

The project **does not conform** with said requirement as the requested information was not provided.

#### 5.48.4. Other requirements.

A. General liability. The owner or director of any school shall annually provide proof that said school has obtained and will continue in effect a comprehensive general liability insurance policy in the minimum amount of one million dollars (\$1,000,000.00) for bodily injury and property damage and shall name the City of Lauderhill as an additional insured. Proof of such insurance policy shall be provided to the Finance Department in conjunction with the filing of the local business tax receipt application. Said owner or director shall also provide the Finance Department thirty (30) days prior notice of the expiration or cancellation of said insurance policy.

The Applicant shall annually comply with said requirement should the Special Exception application be approved by the City Commission.

B. Transportation. If transportation services are provided, the following requirements shall apply: 1. The transportation services requirements specified in the Florida Administrative Code as may be amended from time-to-time. 2. Annually provide proof that said use has obtained and will continue in effect a comprehensive general liability insurance policy in the minimum amount of one million dollars (\$1,000,000.00) for bodily injury and property damage. Proof of such insurance policy shall be provided to the Finance Department in conjunction with the filing of the local business tax receipt application. Said owner or director shall also provide the Finance Department thirty (30) days prior notice of the expiration or cancellation of said insurance policy.

This Section does not apply as transportation services are not provided by the proposed Charter School.

C. School crossing guards. Charter and private schools are required to and shall provide at their own expense school crossing guards that have been trained by certified instructors.

The Applicant shall conform to said requirement.

5.48.5. Exemption.

A private primary or secondary school with twenty-five (25) students or less shall be exempt from:

A.Paragraphs 5.48.1.B. and E;B.Paragraph 5.48.2.A. and C;C.Paragraph 5.48.3.A and B, and shall be allowed as a permitted use in the General Commercial (CG) zoning district.

This section does not apply as there more than 25 students being proposed to occupy the proposed Charter School.

5.48.6. Existing schools.

Existing schools that do not meet the above-described requirements shall comply with the requirements as follows:

A.Starting on Fiscal Year 2017-2018, which begins October 1, 2017, existing schools shall have submitted a site plan modification application in order to ensure compliance with the emergency management, ingress/egress, and site plan requirements. A site plan modification development order must be secured by September 30, 2018; otherwise, a local business tax receipt will not be issued.

B.Starting on Fiscal Year 2017-2018, which begins October 1, 2017, existing schools shall comply with the insurance requirements.

This section does not apply as this is a newly proposed school.

5.48.7 Revocation.

If the City's Police Department records more than five (5) incidents regarding noise, loitering, parking or criminal activity, either from observation by police officers or verified from complaints by three (3) or more unrelated individuals, within the school year, the matter may be brought before the City Commission in order to determine whether the local business tax receipt and/or certificate of use should be revoked, suspended or modified.

The application will be subject to the condition of approval as stipulated in Article III Section 5.48.7.

**VII. 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 subject site consisting of approximately 1.38 acres. SunFire Academy of Oakland Park, Inc. D/B/A SunFire High School is proposing to operate with a total of 12 Staff (with the potential to grow to 20) and a total of 350 students to be served at two separate shifts.

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 although the Planning and

Zoning Division concludes that the most suitable zoning district for the proposed charter school is the Community Facility zoning district. 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 Department recommends the following findings and conclusions be adopted:

1. The conclusion the application is not in conformance with LDR Article IV., Part 4.0., Section 4.6., Standards for approval, on suitability of the use with regard to the intended purpose of the zoning district. The Department concludes that a charter secondary school is not a commercial use but a community facility and that such use is suitable in the Community Facility zoning district, which allows such use as a permitted use. The Department also concludes the community facility use does not serve the City and metropolitan area but the surrounding community.
  2. The conclusion the application is not in conformance with LDR Article IV., Part 4.0., Section 4.6., Standards for approval, on access. The Department finds pedestrian access is not available because a clearly delineated, safe paved pedestrian path connecting the University Drive sidewalk to the building entrance is not available.
  3. The conclusion the application is not in conformance with LDR Article IV., Part 4.0., Section 4.6., Standards for approval, on economic benefits and liabilities because the liabilities exceed the benefits. The proposed use would reduce the amount of real estate taxes collected, thereby impacting the ability to provide services, especially public transit services needed to serve the students. The proposed use, as compared to a retail sales use, also would generate a loss of state sales taxes.
  4. The conclusion the application is not in conformance with LDR Article IV., Part 4.0., Section 4.6., Standards for approval, on demands on utilities and public facilities. The previous operator was deemed a nuisance as business and property owners located near secondary schools have complained about students loitering around the property and disrupting their businesses and the loitering has resulted in an increased demand upon police services.
  5. 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 and that vested rights exist with regard to any non-compliance and that a development order is issued granting approval of the application with said conditions. If the City Commission selects this alternative, then the Department recommends the following conditions be imposed:

1. This special exception use development order for a charter secondary school without transportation services use is specifically granted to SunFire Academy of Oakland Park, Inc. D/B/A SunFire High School and such development order cannot be assigned, leased, subleased, transferred or otherwise conveyed to another person. Further, this special exception use development order shall automatically expire and become null and void if SunFire Academy of Oakland Park, Inc. D/B/A SunFire High School is sold, assigned, transferred or otherwise conveyed to another person.
2. The charter secondary school without transportation services use is restricted to the location legally described herein and the maximum floor area size is limited to 11,763 adjusted square feet. Consistent with Land Development Regulations Article IV., Part 4.0., Section 4.3., the expansion, alteration, enlargement or removal to another location of this use is prohibited and shall be unlawful unless the City Commission amends this development order to allow such expansion, alteration, enlargement or removal to another location. Notwithstanding the above, through the site plan modification process, the City Commission delegates to the Development Review Committee (DRC) the authority to allow the floor plan to be altered; however, the DRC is without authority to allow the expansion, enlargement, or removal of the use to another location.
3. The days and hours of operation are limited to Monday through Friday from 7:00 a.m. to 5:00 p.m. Any increase in either the 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. A site plan modification shall be required to address and document all safety requirements and protocols associated with the Marjory Stoneman Douglas High School Public Safety Act. There are pending concerns with the safety of the Staff and Students for the newly proposed Charter School, as such, the applicant must provide proof of compliance with all the items stipulated in Section 1001.212, Florida Statutes and Section 1006.1493, Florida Statutes referring to the Florida Safe Schools Assessment Tool.
5. The maximum number of students is restricted to 350 to be divided into two shifts, unless the Fire Rescue Department determines that the maximum occupancy load should be smaller. It shall be unlawful to serve students who are under 16 years of age unless the City Commission amends this development order to allow such change.
6. Upon approval of the special exception, a two hundred fifty thousand dollar (\$250,000.00) surety bond or other type of credit will be submitted to the City of Lauderhill as a Condition of approval before the Issuance of a Certificate of Use.
7. The owner or director of any school shall annually provide proof that said school has obtained and will continue in effect a comprehensive general liability insurance policy in the minimum amount of one million dollars (\$1,000,000.00) for bodily injury and property damage and shall name the City of Lauderhill as an additional insured. Proof of such insurance policy shall be provided to the Finance Department in conjunction with

the filing of the local business tax receipt application. Said owner or director shall also provide the Finance Department thirty (30) days prior notice of the expiration or cancellation of said insurance policy.

8. An eight (8) foot high wall shall be installed along the property lines butting the existing canal around the property in order to protect the students should the Special Exception be approved for the Charter School use.
  9. The applicant shall provide proof of compliance with all the items stipulated in Section 1001.212, Florida Statutes and Section 1006.1493, Florida Statutes referring to the Florida Safe Schools Assessment Tool.
  10. A dumpster enclosure for any onsite dumpster shall be required and be fitted with a hose, bib and drain.
  11. Student parking shall be prohibited within the parking area east of the building entrance and no parking shall be allowed behind the building.
  12. Subsequent to occupancy, if the Code Enforcement Division receives three or more complaints against the use within any one year period, the City Commission may hold a duly noticed public hearing to review the special exception use and may add, modify, suspend or revoke any conditions of approval or the development order.
  13. If the City's Police Department records more than five (5) incidents regarding noise, loitering, parking or criminal activity, either from observation by police officers or verified from complaints by three (3) or more unrelated individuals, within the school year, the matter may be brought before the City Commission in order to determine whether the local business tax receipt and/or certificate of use should be revoked, suspended or modified.
  14. ALS shall annually provide the City with a payment equal to the value of the real estate taxes lost due to its tax-exempt status.
  15. This special exception use development order shall automatically expire and become null and void if SunFire Academy of Oakland Park, Inc. D/B/A SunFire High School ceases to operate the charter secondary school center.
  16. A School Resource Officer shall be required to be on premises at all hours.
  17. 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 all outstanding items are to be provided to Staff in order 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 January 27, 2020 regular public hearing.
  
- B. Division recommendation. The Planning and Zoning Division recommends the City Commission **Do not adopt** a resolution granting to SunFire Academy of Oakland Park, Inc. D/B/A SunFire High School to allow an Education, Secondary, Charter school use on a 1.38 ± acre site zoned General Commercial (CG) district.

## ***IX. 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: Traffic Impact Study  
Attachment G: Traffic Comments to Applicant  
Attachment H: Police Email  
Attachment I: SEU conditions Affidavit

Prepared by: Chris Torres, City Planner

Date: January 21, 2020