MEMORANDUM

DATE: October 8, 2008
For October 23, 2008 Hearing

TO: Peter M. Gavin
Zoning Examiner

FROM: Albert Elias, AICP
Urban Planning & Design
Director

SUBJECT: SPECIAL EXCEPTION LAND USE – URBAN PLANNING AND DESIGN REPORT
SE-08-36 Griffin Foundation, Inc.– Alvernon Way, C-2 Zone (Ward 5)

Issue – This is a request by Keri Silyn of Lewis and Roca, LLP, on behalf of the property owners, The Griffin Foundation Inc., for approval to expand a nonconforming use through the Zoning Examiner Full Notice Procedure. The nonconforming use is a public charter school located on the west side of Alvernon Way, approximately 500 feet south of 27th Street, in the Airport Environs Overlay Zone (AEZ) for Davis Monthan Air Force Base (see Case Location Map). The applicant proposes to expand the use by occupying an additional 15,438 square feet of vacant space within an existing commercial center to accommodate a maximum projected population of 650 students.

According to a letter from Zoning Administrator, dated a May 29, 2008, expansion of this non-conforming use may be pursued subject to the criteria listed in Section 5.3.6.1 B. of the *Land Use Code* which states;

> A nonconforming use may be expanded within an existing or new structure or in land area subject to approval by the Examiner through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53, and provided such expansion complies with the following criteria.
>
> 1. The expansion is being undertaken within five (5) years of the time the use became nonconforming.
>
> 2. The expansion complies with *LUC* requirements. These requirements include, but are not limited to, setbacks applicable to the use itself or for new construction, bicycle and motor vehicle parking regulations, and landscaping and screening requirements.
>
> 3. The expansion is for the principal use or for a use that is accessory and incidental to the operation of the existing nonconforming use.
>
> 4. The amount of expansion does not exceed fifty (50) percent of the floor area of the existing building or land area devoted to the existing

nonconforming use. Incremental expansions, cumulatively, shall not exceed the fifty (50) percent provision.

5. The expansion area adjoins the land area, within the same lot, which houses the nonconforming use.

6. The expansion must comply with the development criteria listed for the Land Use Class of the nonconforming use in the most restrictive zone in which the nonconforming use is permitted as of right.

Department of Urban Planning and Design Recommendation – The Department of Urban Planning and Design recommends approval of the requested expansion of the nonconforming use based on the request being in general conformance with the criteria specified in the *LUC* for such an expansion.

Background Information - This is the first request for Zoning Examiner approval to expand a nonconforming use through the Full Notice Procedure. The Griffin Foundation site is located south of Randolph Park, less than one-half mile north of Davis-Monthan Air Force Base (DMAFB), in an area of the AEZ designated as Noise Control District A (NCD-A). At the time the Griffin Foundation charter school began operating at this location in 2001, educational uses were permitted because the property was not located within the AEZ.

In 2001 the Arizona Military Regional Compatibility Project was initiated as a statewide effort to ensure the long-term retention of all military facilities in Arizona. Stakeholders and jurisdictions around each military base in Arizona convened to address land use compatibility issues and prepare recommendations regarding local zoning regulations. In February 2004, the Mayor and Council accepted the *Davis Monthan Air Force Base/Tucson/Pima County Joint Land Use Study (JLUS)* and directed staff to proceed with an amendment to the *LUC* that was based on the recommendations provided in the *JLUS*. As part of the *JLUS* planning process, the DMAFB noise contours were modified, incorporating the Griffin Foundation charter school parcel, among other properties. Davis Monthan AFB staff has indicated they will provide written input on this request.

On October 25, 2005, the Mayor and Council adopted Ordinance No. 10073, amending the Airport Environs Overlay Zone to include the *JLUS* recommendations. Under the new provisions of the AEZ, elementary and secondary educational uses are prohibited within the area designated as Noise Control District - A (NCD-A) and the Griffin Foundation charter school became a nonconforming use. In addition, provisions requiring sound attenuation for noise sensitive development proposed within the NCD-A and NCD-B were also included as part of the adopted ordinance for the AEZ. To achieve the newly required 25 decibel decrease, Development Standard 9-05 – Sound Attenuation was also approved.

Existing Land Use: A public charter school.

North: Zoned C-2; Bowling alley.
South: Zoned C-2 and R-2; A convenience market with gas pumps.
East: Zoned C-2; A strip retail center - across Alvernon Way.
West: Zoned R-2; Single-family residential neighborhood.

Previous Cases on the Property:

SE-02-12 Children Reaching for the Sky – Alvernon Way, C-2. This was a request for approval to allow the installation of an outdoor playground, approximately 200 square feet in size, for an existing charter school, as a special exception land use in the C-2 zone. The Zoning Examiner approved the request on July 18, 2002, subject to conditions.

Related Cases: None

Applicant's Request – The applicant requests approval to expand an existing charter school, currently occupying 32,462 square feet of the site, by an additional 15,438 square feet, to accommodate a maximum projected population of 650 students. The requested increase represents a forty eight percent (48%) expansion of the nonconforming use.

Surrounding Zones and Land Uses - The Griffin Foundation School, occupies part of an older shopping center on a 3.1-acre lease site at 1844 S. Alvernon Way, approximately 500 feet south of 27th Street. The site and areas to the north and south along both sides of Alvernon are zoned C-2 and developed with commercial/retail uses. A bowling alley is to the north; a convenience market with gas pumps is to the south; and a strip retail center is to the east, across Alvernon. An established, single-family residential neighborhood is to the west, in R-2 zoning. The Citation Wash, a major tributary of Arroyo Chico, drains from southeast to northwest under the southern portion of the site, then flows north in an open channel west of and adjacent to the site.

Proposed Expansion - Currently the charter school serves children in grades pre-kindergarten through six, and the Griffin Foundation wishes to add grades seven and eight. To accommodate an increased enrollment and provide additional classroom and related space, the Griffin Foundation proposes an expansion of the school facility into vacant portions of the existing shopping center. Currently, the existing school use occupies 32,462 square feet of the site. The proposal is to expand the use by another 15,438 square feet, which represents a forty eight percent (48%) increase. No new building expansion is proposed; existing vacant building space will be remodeled. No increase in lot coverage or vehicle use area is proposed. No new landscaping is proposed. Based on the information provided, work on the buildings will consist of tenant improvements only. The proposed site improvements are limited to new perimeter fencing along the north, east and a small portion of the south property lines; additional bicycle racks; a new trash enclosure; and limited re-striping of the existing parking lot.

Noise Impacts and Sound Attenuation Compliance. A General Site Inventory and Design Compatibility Report and two documents entitled Griffin Foundation Noise Control District Acoustical Analysis were submitted as part of the application. The first acoustical analysis assessed whether exterior windows, doors, walls, and the ceiling/roof satisfy *LUC* standards for Sound Transmission Class (STC). The second acoustical analysis assessed noise levels inside the school relative to the land use code and development standards for acceptable noise levels.

Based on the information submitted, it appears that the intent is to achieve the desired reductions in interior noise levels for the existing school areas as well as the expansion areas. The analyses concluded that a) if there are proper door and window seals in the expansion area as well as existing school areas, b) if remodeling of the expansion areas adheres to the construction practices indicated relative to sound attenuation, and c) if gypsum board is installed on the interior of masonry walls where not present in the existing school areas, then the existing and proposed school facility will satisfy the *LUC* and the Development Standard.

Compliance Criteria - The applicant's proposal requires approval through a Zoning Examiner Full Notice Procedure (ZEFNP) and must meet the following criteria as stated in Section 5.3.6.1 B. of the *LUC.*

Section 5.3.6.1 B. *Expansion of a Nonconforming Use.* A nonconforming use may be expanded within an existing or new structure or in land area subject to approval by the Examiner through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53, and provided such expansion complies with the following criteria.

1. The expansion is being undertaken within five (5) years of the time the use became nonconforming.

The Griffin Foundation Charter School became a nonconforming use in October 2005, when the Mayor and Council adopted Ordinance No. 10073, amending the Airport Environs Overlay Zone. The expansion is occurring within five years of becoming nonconforming.

2. The expansion complies with LUC requirements. These requirements include, but are not limited to, setbacks applicable to the use itself or for new construction, bicycle and motor vehicle parking regulations, and landscaping and screening requirements.

Development designator "31", requires or allows the following:

Land Use Code	**Griffin Foundation Charter School**
Minimum site area = 0	
Floor area ratio = 0.90	Floor area ratio = 0.27
Maximum building height = 30 feet	Building Height = 20 feet
Off-Street Parking: 93 spaces required	Off-Street Parking = 112 spaces
Off-Street Loading: 2 – 12 X 35 required	Off-Street Loading = 2 – 12 X 35

Bicycle Parking: 83 class two required	Bicycle Parking = 84 class two

The proposal complies with the requirements of the *LUC* development designator "31".

3. The expansion is for the principal use or for a use that is accessory and incidental to the operation of the existing nonconforming use.

The proposed expansion is to accommodate two additional grade levels and the maximum projected population of 650 students. The expansion is for the principle use, a public charter school.

4. The amount of expansion does not exceed fifty (50) percent of the floor area of the existing building or land area devoted to the existing nonconforming use. Incremental expansions, cumulatively, shall not exceed the fifty (50) percent provision.

To accommodate an increased enrollment and provide additional classroom and related space, the Griffin Foundation proposes an expansion of the school facility into vacant portions of the existing shopping center. Currently, the existing school use occupies 32,462 square feet of the site. The proposal is to expand the use by another 15,438 square feet, which represents a forty eight percent (48%) increase.

5. The expansion area adjoins the land area, within the same lot, which houses the nonconforming use.

The proposed expansion is on the same lot as the existing nonconforming use.

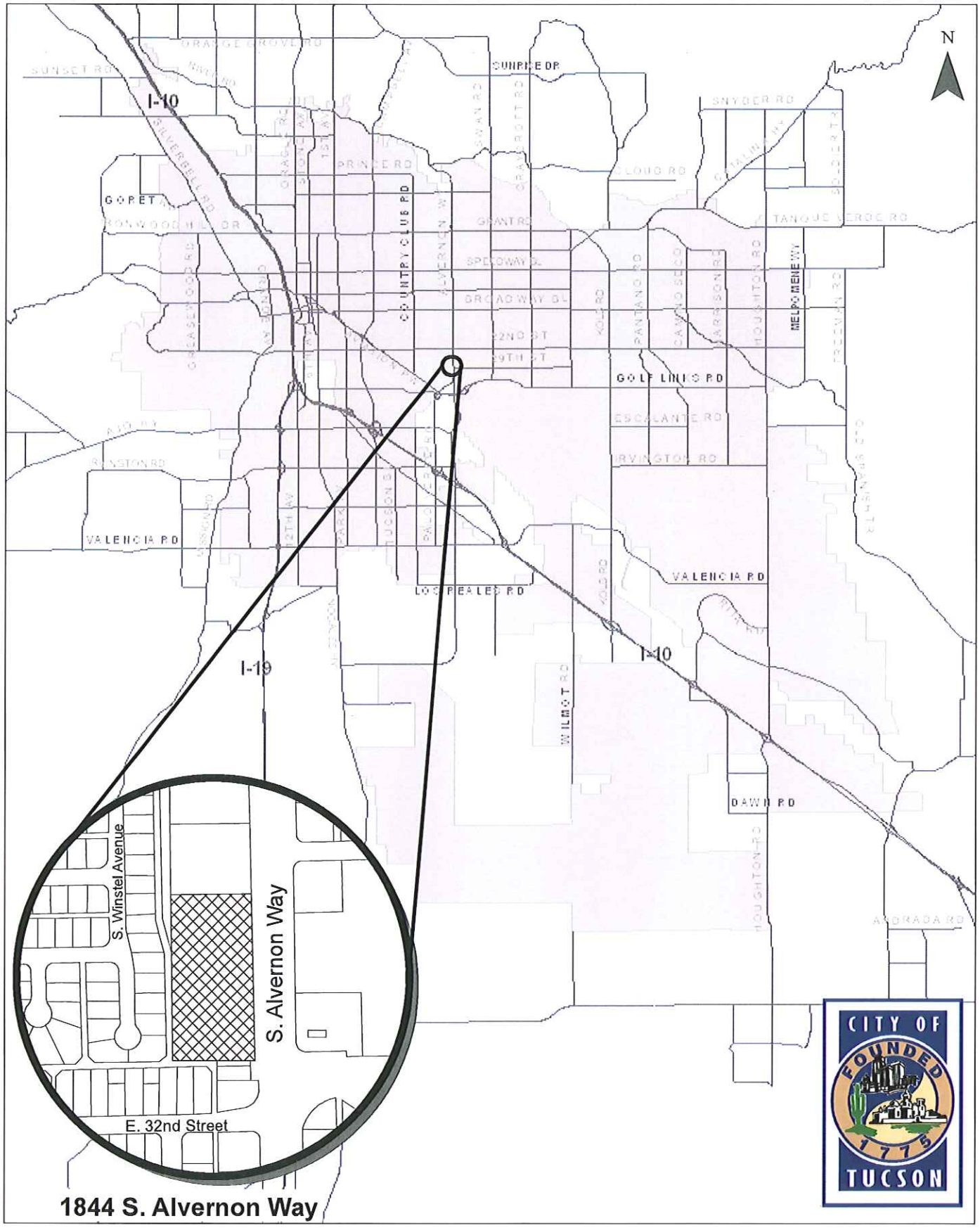
6. The expansion must comply with the development criteria listed for the Land Use Class of the nonconforming use in the most restrictive zone in which the nonconforming use is permitted as of right.

The Griffin Foundation site is located in the Airport Environs Zone Overlay Zone, specifically Noise Control District A and the underlying zoning of the school and expansion site is C-2. The AEZ Overlay Zone represents the most restrictive zone because Elementary and Secondary educational uses are listed as prohibited uses in *LUC* Section 2.8.5.9 A. 2. However, the proposed expansion involves the use of existing vacant building space that is to be remodeled. No new building is proposed and no increases in lot coverage or vehicle use area are proposed. According to the application, work on the existing buildings will consist of tenant improvements only. *LUC* Section 2.8.5.9 A. 1. provides performance criteria that applies to NCD-A, and requires sound attenuation to reduce the interior noise level by twenty-five decibels pursuant to Development Standard 9-05.0. This performance criterion applies to all site built residential uses, all places of public accommodation and all administrative and professional uses within NCD-A.

Conclusion - The proposed expansion of the existing, nonconforming use is in general conformance with the criteria specified in *LUC* Section 5.3.6.1 B.1., and is, therefore, appropriate. The continued use of existing buildings is a priority under broader City policy to promote sustainable, infill development. Expansion of the Griffin Foundation charter school offers an opportunity for adaptive reuse of an existing, vacant commercial center.

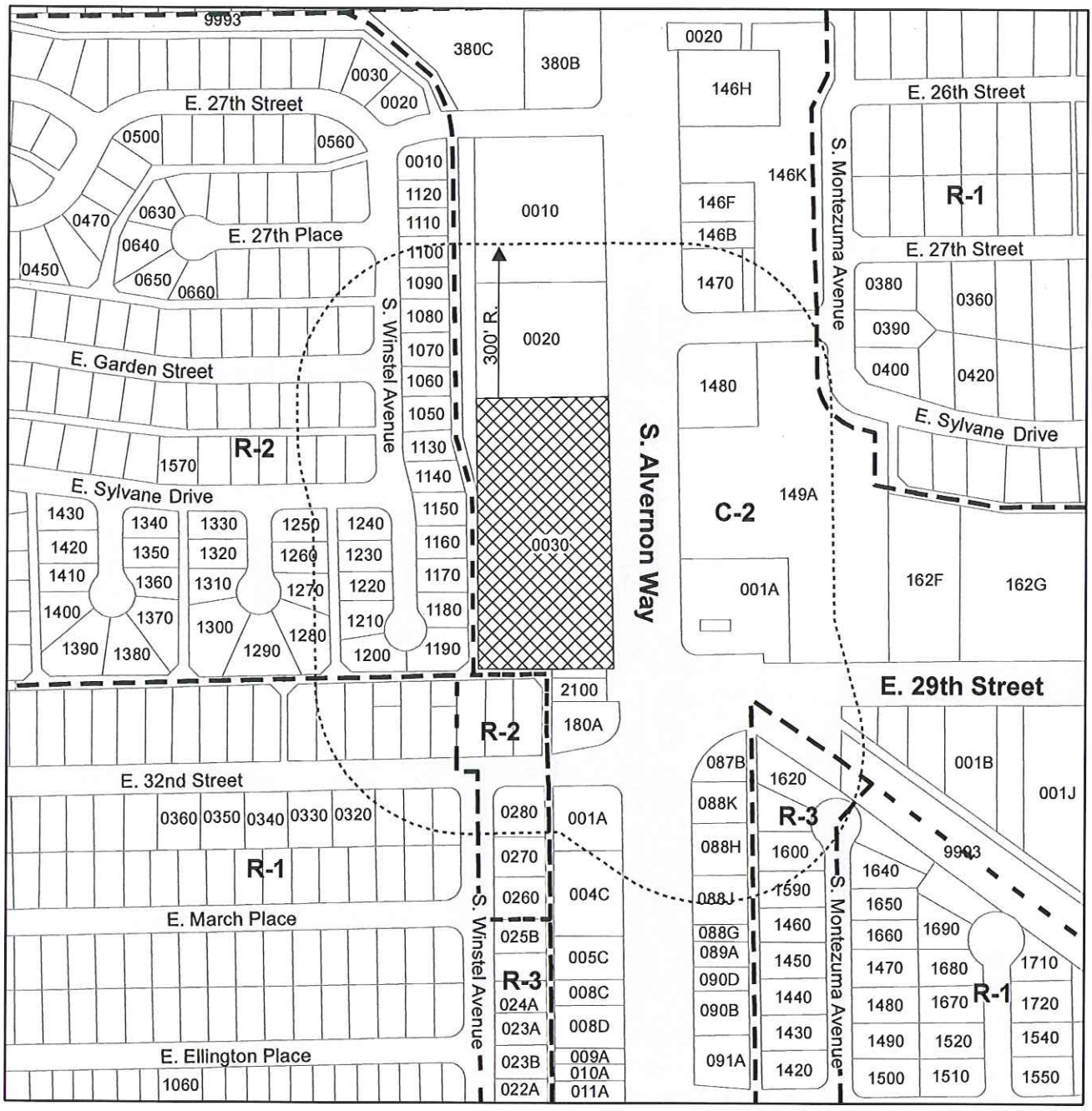
s:/special exception/c9-08-36 sr.doc

SE-08-36 Griffin Foundation - Alvernon Way



SE-08-36 Griffin Foundation - Alvernon Way

Special Exception - Full Notice Procedure



N

0 150 300 Feet

1 inch = 300 feet

Area of Special Exception Request

C-2 Zoning of Requested Area

Zone Boundaries

Notification Area (300 foot radius)

Neighborhood, Area Plan(s): Arroyo Chico Area Plan
Address: 1844 S. Alvernon Way
Base Maps: Sec.21 T.14 R.14
Ward: 5

created by: JJK, 9/17/2008

SE-08-36 Griffin Foundation - Alvernon Way
October 2008 Aerial