

**PLANNING COMMISSION SITE PLAN  
CONDITIONAL USE PERMIT  
REVIEW SHEET**

**CASE NUMBER:** SPC-2015-0190A

**PLANNING COMMISSION HEARING DATE:** February 23, 2016

**PROJECT NAME:** Griffin School 2

**ADDRESS:** 5001 Evans Avenue

**SITE ZONING:** SF-3-NCCD-NP

**CITY COUNCIL DISTRICT:** District 9

**NEIGHBORHOOD PLAN:** North Hyde Park Neighborhood NCCD

**APPLICANT:** Griffin School  
5001 Evans Avenue  
Austin, Texas 78751  
Atten: Adam Wilson

**AGENT:** Civilitude, LLC  
1701 Directors Blvd.  
Austin, Texas 78744  
Atten: Fayez Kazi (512) 761-6161

**CASE MANAGER:** Michael Simmons-Smith (512) 974-1225  
[michael.simmons-smith@austintexas.gov](mailto:michael.simmons-smith@austintexas.gov)

**EXISTING DEVELOPMENT:**

The applicant is requesting approval of a conditional use permit for an existing Private Secondary Education Facility, operating as the Griffin School, of which the campus is located at 5000 Martin Avenue, and at 5001 Evans Avenue. The Griffin School was previously granted approval for a conditional use permit by the Planning Commission on October 12, 2010. At that time, the school proposed a maximum number of 68 students to be enrolled in the school, which consisted, and still consists, of two adjacent sites, bisected by a 20-foot wide alley. The school is now proposing to increase enrollment to a number not to exceed 125 students, which will require amending the terms of the 2010 CUP.

**SUMMARY STAFF RECOMMENDATION:**

Staff recommends approval of the conditional use permit for the Private Secondary Education Facility. The site plan complies with all requirements of the

Land Development Code, including compatibility standards.

**SUMMARY COMMENTS ON SITE PLAN:**

The portion of the existing Griffin School campus located west of the bisecting alley proposes no new construction on the site, nor any modification to the existing classroom building. Minor modifications will include car-sharing designation and signage related to the off-site parking.

This referenced site plan requesting a conditional use permit is in conjunction with an adjacent site plan submitted as Griffin School (SPC-2014-0216CT), which is also requesting a conditional use permit for a Private Secondary Education Facility located at 5000 Martin Avenue, across an alley from the site requesting a conditional use permit with this application. Two separate site plans were required due to the right-of-way (the alley) separating the adjacent properties.

The applicant is proposing a maximum number of 125 students to be located at the two adjacent sites. The limited number is based on a Board of Adjustment determination that granted a variance from LDC Section 25-2-832(1), which states that a site must be located on a street that has a paved width of at least 40 feet from the site to where it connects with another street that has a paved width of at least 40 feet. The widths of 50<sup>th</sup> Street, Martin Avenue and Evans Avenue are 27 feet of paving and 50 feet of right-of-way. Please refer to the attached Decision Sheet related to Board of Adjustment case # C15-2015-0068 as heard by the BOA on September 15, 2015.

The applicant will be providing a total of 34 parking spaces to serve the two Griffin School sites, and 33 spaces are required in order to comply with parking criteria for the number of students and staff. In addition, the school has entered into an agreement with the Ridgetop Baptist Church, located at 701 E. 51<sup>st</sup> Street, to provide additional parking for the school's use.

The site is located within the North Hyde Park Neighborhood NCCD, and the Griffin School site is in compliance of the NCCD requirements. In addition, please note the attached "Restrictive Covenant and Agreement" that has been drafted by the Griffin School and accepted by the Hyde Park Neighborhood Association.

**NEIGHBORHOOD ORGANIZATIONS:**

34 - Hyde Park Neighborhood Association  
283 - North Austin Neighborhood Alliance  
511 - Austin Neighborhoods Council  
704 - North Loop Neighborhood Plan - COA Liaison  
742 - Austin Independent School District  
786 - Home Builders Association of Greater Austin  
941 - Northfield Neighborhood Association

1037 - Homeless Neighborhood Assn.  
1075 - League of Bicycling Voters  
1113 - Austin Parks Foundation  
1200 - Super Duper Neighborhood Objectors and Appealers Organization  
1224 - Austin Monorail Project  
1228 - Sierra Club, Austin Regional Group  
1236 - The Real Estate Council of Austin, Inc  
1254 - Hyde Park Neighborhood Plan Contact Team  
1271 - Hyde Park Neighborhood Plan - COA Liaison

### **CONDITIONAL USE PERMIT REVIEW AND EVALUTATION CRITERA**

The following evaluation is included to provide staff's position on each point of the conditional use permit criteria. Section **25-5-145** of the Land Development Code (**EVALUATION OF CONDITIONAL USE SITE PLAN**) states:

**A.** The Land Use Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section.

**B. A conditional use site plan must:**

**Comply with the requirements of this title;**

Staff Response: This site plan complies with all regulations and requirements of the Land Development Code.

**Comply with the objectives and purposes of the zoning district;**

Staff Response: The SF-3 zoning district is intended for single-family dwelling with exceptions to some civic uses such as a Private Secondary Education Facility, which is considered a Conditional Use. This site plan complies with all development regulations of the SF-3 zoning district, including height, impervious cover, and building coverage. The Conditional Use Permit is requested to allow a Private Secondary Education Facility, with a maximum of 125 students as was limited by the Board of Adjustment as a condition of approval for a variance from LDC Section 25-2-832 (*Private Schools*).

**Have building height, bulk, scale, setback, open space, landscaping, drainage, access, traffic circulation, and use that is compatible with the use of an abutting site;**

Staff Response: The site plan complies with setback, height, and compatibility requirements. The site received a variance from the Board of Adjustment concerning the street paved width in order to create a Private Secondary Education Facility. Please see attached documents related to Board of Adjustment case # C15-2015-0068. The site plan will comply with all requirements of the Land Development Code.

**Provide adequate and convenient off-street parking and loading facilities; and**

Staff Response: The site plan demonstrates adequate off-street parking and loading for the Private Secondary Education land use.

**Reasonably protect persons and property from erosion, flood, fire, noise, glare, and similar adverse effects.**

Staff Response: The site plan will comply with all requirements of the Land Development Code including compatibility standards, and reasonably protects the health, safety, and welfare of persons and property.

**C. In addition, a conditional use site plan may not:**

**More adversely affect an adjoining site than would a permitted use;**

The proposed site plan complies with all development regulations of the SF-3 zoning district.

**Adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area; or**

Staff Response: The site plan does not adversely affect the safety and convenience of vehicular and pedestrian circulation.

**Adversely affect an adjacent property or traffic control through the location, lighting, or type of a sign.** Staff Response: All signs and lighting will comply with the Land Development Code.

**D. A site plan may not adversely affect the public health, safety, or welfare, or materially injure property. If the Land Use Commission determines that a site plan has an adverse effect or causes a material injury under this subsection, the Land Use Commission shall identify the adverse effect or material injury.**

In addition, Section 25-5-146 (**CONDITIONS OF APPROVAL**) states:

(A) To make a determination required for approval under Section 25-5-145 (Evaluation Of Conditional Use Site Plan), the Land Use Commission may require that a conditional use site plan comply with a condition of approval that includes a requirement for:

- (1) a special yard, open space, buffer, fence, wall, or screen;
- (2) landscaping or erosion;
- (3) a street improvement or dedication, vehicular ingress & egress, or traffic circulation;
- (4) signs;
- (5) characteristics of operation, including hours;
- (6) a development schedule; or

(7) other measures that the Land Use Commission determines are required for compatibility with surrounding uses or the preservation of public health, safety, or welfare.

Site	Proposed Student & Staff Count (Total 125 students & 20 staff)	Required Ratio	Required Spaces	Required Spaces	Urban Core Reduction	Car Sharing Reduction	Shower Reduction	Total Reduction	Required Spaces	Provided Spaces		
Adjacent Site (5000 Martin Ave)	11th & 12th Grade Student Count	25	1.3	8.3	20.3	4.1	0.0	2.0	6.1	14.2	2	
	School Staff	8	3.2	12.8								
Project Site (5001 Evans Ave)	11th & 12th Grade Student Count	38	1.3	12.7	30.7	6.1	20.0	0.0	12.3	18.4	32	
	School Staff	12	3.2	18.0								
TOTAL Parking Spaces											33	34
Number of shared parking spaces located on 5001 Evans Ave to serve 5000 Martin Ave												12
Dedicated Car Sharing Parking Spaces (Part of Total Count)												1
Accessible Parking Spaces (Part of Total Count)												1
Compact Parking Spaces (Part of Total Count)												0

NOTES: 11th & 12th Grader Students are approximately 50% of the total number of students (125).

\* TWO SITES ARE LIMITED BY A COMBINED MAXIMUM TOTAL OF 125 STUDENTS & 20 STAFF. THE NUMBER OF 11th & 12th GRADERS IS TAKEN AS 63 STUDENTS (50% OF THE TOTAL NUMBER OF STUDENTS 125).

\*\* SEE DOC #\_\_\_\_\_ FOR OFF-SITE PARKING AGREEMENT WITH 5001 EVANS AVE SITE.

#### CONDITIONAL USE NOTES:

MAX NUMBER OF STUDENTS 125  
MAX NUMBER OF STAFF: 20

THIS SITE PLAN IS IN CONJUNCTION WITH THE ADJACENT SITE LOCATED AT 5000 MARTIN AVE. THESE COMBINED LIMITS ARE TO BE APPLIED TO BOTH SITES AS A WHOLE.

#### PROPERTY INFORMATION:

ZONING: SF-3--NCCD  
TOTAL SITE AREA: 23,419  
FLOOR AREA RATIO: 0.319  
ALLOWABLE IMP COVERAGE: 45%  
IMPERVIOUS COVERAGE: 11,448 S.F. / 48%  
TOTAL BUILDING COVERAGE: 7,474 S.F. / 32%

#### BUILDING INFORMATION:

EXISTING USE: PRIVATE SECONDARY SCHOOL  
NUMBER OF STORIES: ONE  
BUILDING HEIGHT: 20' EXISTING (35' ALLOWED)  
FINISHED FLOOR ELEVATION: 104.59'  
FOUNDATION TYPE: CONCRETE SLAB ON GRADE  
TOTAL SQUARE FOOTAGE: 7,474

#### PARKING AND TRAFFIC FLOW:

THE GRIFFIN SCHOOL DOES NOT USE SCHOOL BUSES FOR TRANSPORTING STUDENTS

DROP-OFF/PICK-UP AREA: THE SCHOOL WILL DESIGNATE THREE (3) OF THE AVAILABLE PARKING SPACES (ABOVE WHAT IS REQUIRED BY CODE) AS "5-MINUTE PARKING" TO BE USED FOR STUDENT DROP-OFF AND PICK-UP. TRAFFIC WILL BE DIRECTED TO THE ALLEY AND ROADWAYS SURROUNDING THE EAST LOT AS NEEDED. THE SCHOOL WILL BE PROACTIVE IN DIRECTING THIS TRAFFIC AND COMPELLING STUDENTS, PARENTS AND TEACHERS TO NOT CAUSE CONGESTION IN THE ROADS AROUND THE SCHOOL PROPERTY.

#### COMPATIBILITY STANDARD NOTES:

1. ALL EXTERIOR LIGHTING WILL BE HOODED OR SHIELDED FROM THE VIEW OF ADJACENT RESIDENTIAL PROPERTY (SECTIONS 25-2-1064).
2. ALL DUMPSTER AND ANY PERMANENTLY PLACED RECEPTACLES WILL BE LOCATED AT A MINIMUM OF TWENTY (20) FEET FROM A PROPERTY USED OR ZONED AS SF-3 OR MORE RESTRICTIVE (SECTION 25-2-1067).
3. THE USE OF HIGHLY REFLECTIVE SURFACES, SUCH AS REFLECTIVE GLASS AND REFLECTIVE METAL ROOFS, WHOSE PITCH IS MORE THAN A RUN OF SEVEN (7) TO A RISE OF TWELVE (12), WILL BE PROHIBITED (SECTIONS 25-2-1067).
4. THE NOISE LEVEL OF MECHANICAL EQUIPMENT WILL NOT EXCEED 70 DBA AT THE PROPERTY LINE ADJACENT TO RESIDENTIAL USE (SECTION 25-2-1067).

#### OFF-SITE PARKING NOTES:

1. THIS SITE DESIGNATE 12 PARKING SPACES TO SERVE AS OFF-SITE PARKING FOR ADJACENT SITE LOCATED AT 5000 MARTIN AVE. THESE SPACES ARE TO BE AVAILABLE 24/7.
2. SIGNAGE SHALL BE PROVIDED INDICATING OFF-SITE PARKING AS FOLLOWS: ONE SIGN SHALL BE PROVIDED AT THE OFF-SITE PARKING INDICATING THE PROPERTY OR USE WHICH IT SERVES, AND ONE SIGN SHALL BE PROVIDED ON THE SITE OF THE USE SERVED INDICATING THE LOCATION OF THE OFF-SITE PARKING.

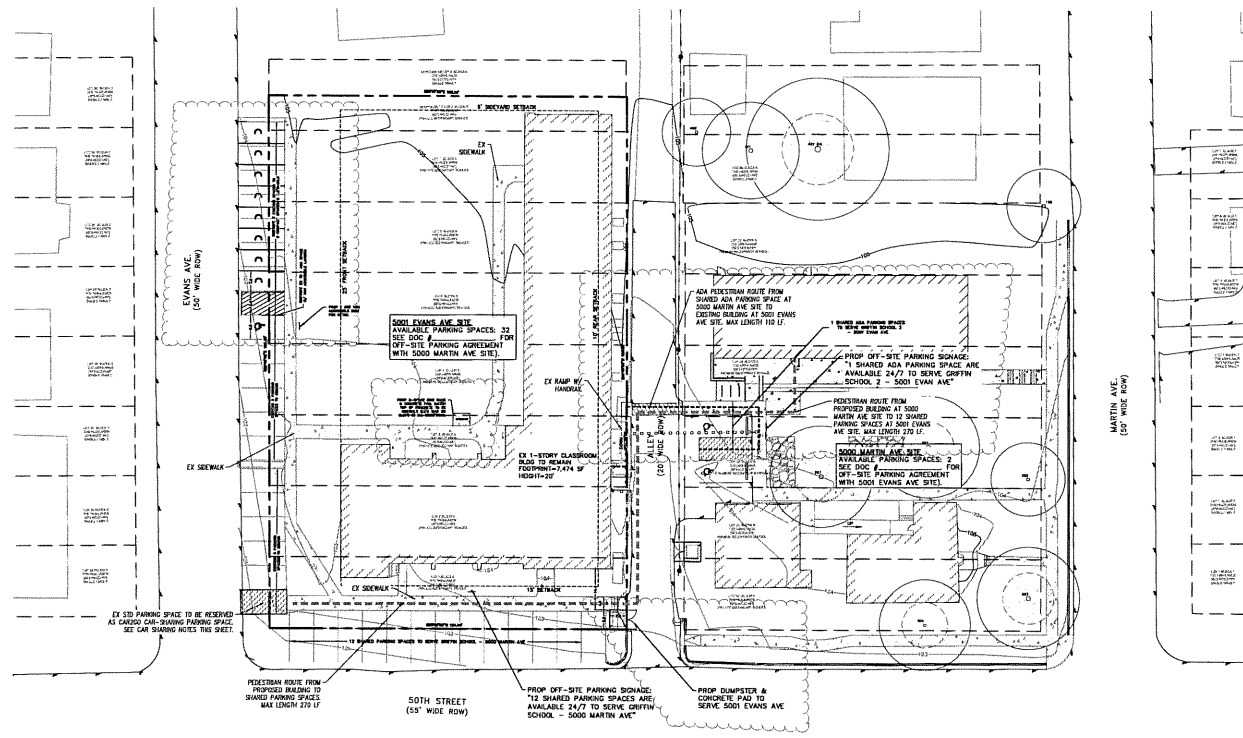
#### CAR-SHARING SERVICE NOTES:

1. THIS PROJECT WAS APPROVED FOR PARKING REDUCTIONS FOR PROVIDING A CAR-SHARING SERVICE. ONE CAR SHARING VEHICLE IS BEING PROVIDED BY THE OWNER/PROPERTY MANAGER.
2. A CAR SHARING PROGRAM SHALL OFFER USE OF VEHICLE(S) 24 HOURS AND 7 DAYS A WEEK ON AN HOURLY BASIS TO ITS MEMBERS (EMPLOYEES AND STAFF).
3. A CAR SHARE PROGRAM MUST PROVIDE INSURANCE FOR ITS MEMBERS AND ENABLE ADVANCED BOOKING OF ITS VEHICLES.
4. PROOF OF INSURANCE AND VEHICLE TITLE DOCUMENTS AND/OR VEHICLE LEASE AGREEMENTS FOR THE CAR SHARING VEHICLE(S) MUST BE PROVIDED UPON REQUEST BY CITY OF AUSTIN INSPECTORS.
5. ANNUAL REPORTING OF THE CAR SHARING SERVICE USE IS REQUIRED. THE REPORT FORM MUST BE SUBMITTED TO THE DIRECTOR OF THE PLANNING AND DEVELOPMENT REVIEW DEPARTMENT, ONCE A YEAR, STARTING ONE YEAR AFTER THE CERTIFICATE OF OCCUPANCY FOR THE USE IS ISSUED.
6. SIGNAGE INDICATING THE AVAILABILITY OF THE SERVICE SHALL BE POSTED ON THE BUILDING AT A LOCATION THAT IS CLEARLY VISIBLE TO THE MEMBERS AND PATRONS THAT BENEFIT FROM THE CAR-SHARING SERVICE.
7. THE CAR-SHARING PROPOSAL IS FILED IN THE SITE PLAN MASTER FILE.
8. IN ACCORDANCE WITH LAND DEVELOPMENT CODE SECTION 25-1-412, THE DIRECTOR MAY SUSPEND A RELEASED SITE PLAN UNTIL THE REQUIREMENTS ARE MET.

LEGEND	
PROPERTY LINE	
EXISTING PROPERTY LINES	
▲ CALCULATED POINT	
● 1/2" HIGH RED IRON	
● 1" HIGH RED IRON	
● 1" HIGH RED IRON	
CO+ CLEAN OUT	
EDGE OF ASPHALT	
ELECTRIC POLE BOX	
ELECTRIC METER	
GAS METER	
GAS VALVE	
WATER METER	
WATER VALVE	
AIR CONDITIONING	
AC (AS NOTED)	
POWDER FILL	
DOWN GUT	
WOOD FENCE	
CHAIN LINK FENCE	
OVERHEAD UTILITIES	
CONCRETE	
BUILDING	
VOL. VOLUME	
P.C. POINT-OF-CUT	
P.A.T.C. POINT-OF-TANGENCY	

#### TREE LIST

NO.	SIZE	DESCRIPTION
5003	21"	RED OAK
5004	18"	RED OAK
5005	36"	LIVE OAK
5006	23"	RED OAK
5007	8"	HACKBERRY
5008	15"	HACKBERRY (DOUBLE)
5009	13"	PICAN
5010	8"	HACKBERRY
5011	12"	HACKBERRY
5012	10"	HACKBERRY
5013	26"	RED OAK
5014	21"	HACKBERRY (DOUBLE)
5015	12"	HACKBERRY



THE LOCATION OF EXISTING UTILITIES AND VEHICLES IS AN APPROXIMATION ONLY. THE CONTRACTOR SHALL VERIFY THE EXISTENCE OF ALL UTILITIES BEFORE CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY AND ALL DAMAGES RESULTING FROM THE LOCATION OF UTILITIES AND VEHICLES.

GRIFFIN SCHOOL  
5001 EVANS AVENUE, AUSTIN, TX 78751

#### CONDITIONAL USE SITE PLAN

**CIVILITUDE**  
ENGINEERS & PLANNERS

1701 DREXEL BLVD., SUITE 200, AUSTIN, TX 78704  
PHONE: 512.761.8181 FAX: 512.761.8187 WWW.CIVILITUDE.COM

SCALE: AS SHOWN

JOB NO: A132-001

DCN BY: NHH

DWN BY: NHH

RWN BY: FRK

SITE PLAN APPROVAL: \_\_\_\_\_ OF \_\_\_\_\_  
FILE NUMBER: \_\_\_\_\_ APPLICATION DATE: \_\_\_\_\_  
APPROVED BY COMMISSIONER OF \_\_\_\_\_ UNDER SECTION \_\_\_\_\_ OF THE CITY OF AUSTIN CODE  
EXPIRATION DATE (30-6-11, 12C): \_\_\_\_\_ CASE MANAGER: \_\_\_\_\_  
PROJECT EXPIRATION DATE (30-6-11, 12C): \_\_\_\_\_

Revised, Planning and Development Review

RELEASED FOR GENERAL COMPLIANCE: \_\_\_\_\_

Rev. 1: \_\_\_\_\_ Rev. 2: \_\_\_\_\_

Final plan must be recorded by the Project Expiration Date, if applicable.

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Final



**CITY OF AUSTIN  
Board of Adjustment  
Decision Sheet**

**DATE:** Monday, September 14, 2015

**CASE NUMBER:** C15-2015-0068

☐ Y ☐ Brooke Bailey  
☐ Y ☐ Michael Benaglio  
☐ Y ☐ William Burkhardt  
☐ N/A ☐ Eric Goff  
☐ Y ☐ Vincent Harding (Chair)  
☐ Y ☐ Melissa Hawthorne (Vice-Chair) 2<sup>nd</sup> the motion  
☐ Y ☐ Don Leighton-Burwell  
☐ OUT ☐ Melissa Neslund  
☐ Y ☐ James Valadez  
☐ Y ☐ Michael Von Ohlen Motion to Grant with conditions

**APPLICANT:** Nikelle Meade

**OWNER:** Adam Wilson

**ADDRESS:** 5000 MARTIN AVE, 5001 EVANS

**VARIANCE REQUESTED:** The applicant has requested a variance(s) from Section 25-2-832 (Private Schools) (1), of Division 3 – Civic Uses to decrease the minimum paved width of a street that the site must be located on from at least 40 feet from the site to where it connects with another street that also has a paved width of at least 40 feet (required) to 27 feet paved width on both 50th Street and Evans Avenue and 31 feet paved width on Martin Avenue (requested) in order to remodel and increase the maximum number of students from 68 students (previous BOA variance requirement) to 125 student in a “SF-3-NCCD-NP”, Family Residence – Neighborhood Conservation Combining District - Neighborhood Plan zoning district. (Hyde Park)

**BOARD’S DECISION:** POSTPONED TO June 8, 2015 AT THE APPLICANT’S REQUEST (RENOTIFICATION REQUIRED)

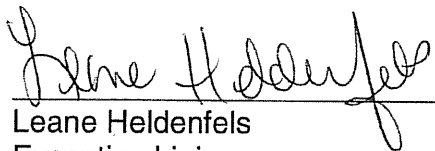
**RENOTIFICATION REQUEST:** The applicant has requested a variance(s) from Section 25-2-832 (Private Schools) (1), of Division 3 – Civic Uses to decrease the minimum paved width of a street that the site must be located on from at least 40 feet from the site to where it connects with another street that also has a paved width of at least 40 feet (required) to 27 feet paved width on 50th Street, Evans Avenue and Martin Avenue (requested/existing) in order to amend a condition of a previously approved variance so the applicant may increase the maximum number of students allowed on the site from 68 (as required pursuant to a previous Board variance approval on August 9, 2010 in case No C15-2010-0075 and 0076, existing) to the lower of either 125 students or the number of students permitted based on the number of parking spaces provided in accordance with the Table of Off-Street Parking and Loading Requirements for Public or Private Secondary Educational Facilities as listed in Section 25-6, Appendix A

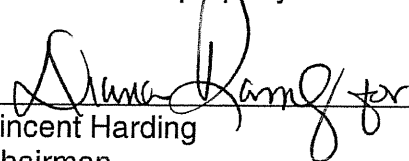
(requested) in a "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District - Neighborhood Plan zoning district. (Hyde Park)

**BOARD'S DECISION:** June 8, 2015 - The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to July 13, 2015, Board Member Michael Von Ohlen second on a 7-0 vote; POSTPONED TO JULY 13, 2015; July 13, 2015 The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to August 10, 2015, Board Member Melissa Neslund second on a 9-0 vote; POSTPONED TO AUGUST 10, 2015. Aug 10, 2015 The public hearing was closed on Board Member William Burkhardt motion to Postpone to September 14, 2015, Board Member Michael Von Ohlen second on a 8-0 vote; POSTPONED TO SEPTEMBER 14, 2015; September 14, 2015 The public hearing was closed on Board Member Michael Von Ohlen motion to Grant as per L2/3 the executed restrictive covenant and Item numbers 1, 3, 5, 6, 8, 9, 10 of that agreement separate from the agreement itself, Board Member Melissa Hawthorne second on a 8-0 vote; GRANTED AS PER L2/3 THE EXECUTED RESTRICTIVE COVENANT AND ITEM NUMBERS 1, 3, 5, 6, 8, 9, 10 OF THAT AGREEMENT SEPARATE FROM THE AGREEMENT ITSELF.

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: the property cannot be used as a school without a variance from the street width requirements
2. (a) The hardship for which the variance is requested is unique to the property in that: the property is a neighborhood school situated between three small neighborhood streets, whereas most other schools in the city are located on larger streets and arterials  
(b) The hardship is not general to the area in which the property is located because: Griffin school is the only property in the area that does not meet the street width requirement as it is the only school in the area located on a street that is less than the minimum width
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: the use for which the variance is needed already exists on the property

  
Leane Heldenfels  
Executive Liaison

  
Vincent Harding  
Chairman



## Hyde Park Neighborhood Association

P.O. Box 49427 • Austin, TX 78765 • [www.austinhypark.org](http://www.austinhypark.org)

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### Board of Adjustment Members:

This is to advise you that the Griffin School is going through the necessary steps for approval of a restrictive covenant with the Hyde Park Neighborhood Association.

- On June 30, 2010, at a specially called meeting, the Hyde Park Neighborhood Association voted unanimously to support the Griffin School application for a variance to operate a school of up to 125 students at 600 E. 50th Street, adjacent to streets which are 30 feet wide rather than the 40 feet wide required by city code.

- On June 1, 2015, the Hyde Park Neighborhood Association passed the following resolution:

*The Hyde Park Neighborhood Association is in favor of the Griffin School's application for a variance from the minimum street paved width requirements of Section 25-2-832(1) of the Austin City Code in order to add new classroom facilities to the school and increase its enrollment to a maximum of 125 students.*

- On July 18, 2015, the Executive Director of the Griffin School, Adam Wilson; the attorney for the Griffin School, Nikelle Meade; and the co-Presidents and co-Vice Presidents of the Hyde Park Neighborhood Association met to discuss the restrictive covenant and to refine various provisions within that covenant.
- On August 9, a notarized copy of the restrictive covenant agreement was delivered by the Griffin School to the Hyde Park Neighborhood Association.
- On August 10, the Hyde Park Neighborhood Association Steering Committee is considering this covenant to present to the general membership for a vote at the next available meeting.
- At the next available general membership meeting, the Hyde Park Neighborhood Association membership will vote on this covenant.

Please keep this in mind when you review the application of the Griffin School at your meeting on August 10, 2015.

Thank you,

*Karin Hyl* *Lorrie Wiedlich*

Co-Presidents  
Hyde Park Neighborhood Association



RESTRICTIVE COVENANT AND AGREEMENT

STATE OF TEXAS                   §  
   §  
 COUNTY OF TRAVIS           §

This Restrictive Covenant (this "Restrictive Covenant") is executed this 14<sup>th</sup> day of September, 2015 (hereinafter, the "Effective Date"), by The Griffin School, Inc., a Texas nonprofit corporation ("Owner").

RECITALS

A. Owner is the owner of the property located in Travis County, Texas described on Exhibit A attached hereto (the "Property");

B. Owner owns and operates a high school known as the Griffin School on the Property;

C. For purposes of this Restrictive Covenant, the term "**Variance**" shall mean the variance requested of the City of Austin Board of Adjustment by Griffin School in City of Austin Case No. C15-2015-0068 which waives the requirements of Section 25-2-832 of the City Code of the City of Austin, and which permits 125 students to be enrolled in a public or private primary or secondary school on the Property;

D. For purposes of this Restrictive Covenant, the term "**School**" shall mean Griffin School and any other public or private primary or secondary school operating on the Property if the operation of said school would necessitate the Variance; and

E. Owner desires to restrict the use of the Property, subject to the terms and conditions of this Restrictive Covenant.

NOW, THEREFORE, it is hereby declared that the Property be subject to the following covenants, conditions and restrictions (the "**Restrictions**") which, subject to the terms and conditions herein, shall be binding upon the owners of the Property or any part, their heirs, successors, and assigns and shall inure to the benefit of and are enforceable by the Hyde Park Neighborhood Association, Inc., a Texas nonprofit corporation (the "**HPNA**").

RESTRICTIONS

1. **Enrollment.** For so long as the Property is used as a School, the number of students enrolled may not exceed 125. No later than September 30<sup>th</sup> of each school year, Owner will provide the HPNA with a sworn affidavit certifying the total number of students enrolled, and HPNA shall make the affidavit available for review by any HPNA member or person eligible for HPNA membership.

2. **HPNA Support.** The HPNA hereby confirms that it is in support of the Variance, so long as the Variance is conditioned upon a maximum enrollment of 125 students, and that Owner may use this Restrictive Covenant as evidence of its support at its Board of Adjustment hearing(s).

3. **Parking at Ridgetop.** Beginning as of the Effective Date, Owner will require all students (other than those students who require on-site parking due to medical conditions or other special circumstances as approved by the School's administration) to park in the parking lot at the Ridgetop Baptist Church (the "**Ridgetop Parking Lot**") located at 701 E 51st St., Austin, Texas or, if applicable, a Replacement Lot (defined below). In the event Owner's lease for the use of the Ridgetop Parking Lot expires or is otherwise terminated, Owner agrees to (1) promptly notify the HPNA of such termination, and (2) immediately pursue and use its best efforts to secure a lease for a replacement parking lot that can accommodate all student parking (the "**Replacement Lot**") within three (3) months. The foregoing requirement shall continue to apply in the event Owner's lease for the use of any Replacement Lot expires or is otherwise terminated.

4. **Cell Phone Parking Lot.** Beginning as of the Effective Date, Owner will require all parents to use the Ridgetop Parking Lot, or any Replacement Lot, if applicable, as a "cell phone" lot in which to park their cars and wait in the event they are early picking up students and there are no parking spaces available in the School's parking lot.

5. **One-Way Traffic Flow.** Beginning as of the Effective Date, Owner will implement a one-way traffic flow plan so that Griffin School students, parents, and staff driving to and from the School will be directed south on Martin Avenue and north on Evans Avenue. Owner will implement this plan by providing traffic flow maps and instructions to students, staff, and parents in accordance with Section 8 below.

6. **Resident-Only Permit Parking.** If requested by the majority of the residents living along Martin Avenue, Evans Avenue, and/or 50<sup>th</sup> Street, Owner will support the designation of Resident-Only Parking on Martin Avenue, Evans Avenue, and/or 50<sup>th</sup> Street on both sides of such streets (other than the passenger-only zone as designated by the City of Austin) by paying for any up-front application fees and by providing a letter stating Owner's support of the Resident-Only Parking designation.

7. **Parking Permits.** Owner will require each student and staff member of a School located on the Property who drives a motor vehicle to the Property to place a School-issued parking permit on their vehicle to identify the owner of such vehicle.

8. **Communication of Parking and Traffic Regulations.** At the beginning of each academic school year, the School will hold a mandatory information session for parents and a mandatory orientation for students to advise them about the School's traffic and parking regulations. The School will also provide all staff members, parents, and students with a copy of the School's traffic and parking regulations prior to the start of each school year via mail, electronic mail, or hand delivery.

9. **Enforcement Plan.** Beginning as of the Effective Date, Owner will implement a parking and traffic enforcement plan (the “**Enforcement Plan**”) to regulate student and parent compliance with the requirements contained herein. As part of the Enforcement Plan, Owner will provide a traffic monitor to be on duty between the hours of 8:15am and 9:00am and between the hours of 3:30pm and 4:30pm on days that school is in session during the first thirty (30) days of the Fall school semester and on days that school is in session the first week of school following the School’s Winter Break to enforce consistent compliance with the parking and traffic regulations contained herein. The Enforcement Plan will also include the consequences listed below, which will be published in the School Handbook. Following the mandatory information session at the start of each school year, students and parents who violate the School’s parking and traffic regulations, will incur the following consequences:

- a. 1<sup>st</sup> Violation: Verbal warning.
- b. 2<sup>nd</sup> Violation: Written citation explaining consequences for repeated violations.
- c. 3<sup>rd</sup> Violation: The student will be suspended for one (1) day of school. A face-to-face meeting with the student and parents will be arranged to reinforce the parking and traffic rules and convey the importance of adhering to them.
- d. 4<sup>th</sup> Violation: Student will be suspended for three (3) days of school. A face-to-face meeting with the student and parents will be arranged to provide a final warning to adhere to the parking and traffic rules of the School.
- e. 5<sup>th</sup> Violation: Student will be suspended for three (3) days of school and considered for expulsion.
- f. 6<sup>th</sup> Violation: Student will be expelled.

10. **Letter of Credit Benefitting HPNA.** As security for the performance of its obligations to the HPNA hereunder, Owner shall deposit a Reducing Standby Letter of Credit (the “**LOC**”) in the amount of Ten Thousand and No/100 Dollars (\$10,000.00), in a form substantially similar to the attached Exhibit B to be held in escrow by Heritage Title Company of Austin, or another similarly reputable escrow agent or bank of Owner’s choice (“**Escrow Agent**”), within thirty (30) days after the latter of the following to occur: (i) Owner obtains final approval of the Variance and the Variance allows 125 students to be enrolled in the School; and (ii) Owner obtains final approval of the conditional use permit on file as City of Austin Case No. SPC-2015-0190A (the “**CUP**”) and the CUP allows 125 students to be enrolled in the School. If, as the result of a violation of this Restrictive Covenant by Owner as alleged by the HPNA, the HPNA institutes legal proceedings to enforce a claim that Owner is in violation hereof, or consults with an attorney about the alleged violation but ultimately decides not to file a lawsuit, then the HPNA may, upon written notice of the alleged violation to the Escrow Agent, draw on the LOC from time to time thereafter to pay invoices for the actual out-of-pocket expenses it has incurred as a direct result of instituting and pursuing such legal proceedings, including reasonable attorneys’ and other consultants’ fees and court costs (or in the event the HPNA ultimately decides not to file a lawsuit, the actual out-of-pocket expenses for consulting with an attorney about the alleged violation) by submitting: (i) a sworn affidavit signed by the

HPNA, affirming under oath that all requirements necessary to draw upon the LOC have been satisfied; and (ii) a written request for reimbursement to the Escrow Agent along with copies of such invoices for such expenses (the amounts paid by the Escrow Agent to the HPNA hereunder, the "Paid Costs"); provided, however, if the HPNA's claim that Owner is in breach hereunder is not successful in such legal proceedings, or if the HPNA's claim or decision to consult with an attorney (even if no lawsuit was filed) was made in bad faith without any reasonable grounds for believing that the Owner was in breach of this Agreement, Owner reserves the right to seek recoupment of the amount of the Paid Costs plus statutory interest calculated from the date or dates such Paid Costs were paid to the HPNA by the Escrow Agent, in addition to any and all other remedies, damages, and recovery of cost, fees, and expenses, including but not limited to reasonable attorneys' fees, to which Owner may be entitled under this Restrictive Covenant or at law. Subject to the notice and cure provisions of Section 11 of this Restrictive Covenant, if the HPNA chooses to seek an injunction to address an event of violation of this Restrictive Covenant and a bond is required of HPNA in connection with said injunction, the HPNA may draw on the LOC up to One Hundred and NO/100 Dollars (\$100.00). If any School that has posted an LOC or a bond or cash payment in satisfaction of this Paragraph 10 sells or transfers the Property to an unaffiliated owner that operates a School on the Property, then (i) the provisions of this Section 10 shall automatically lapse and terminate as to the transferring School upon the presentation by the transferee School of a replacement LOC or bond or cash payment in the same amount as the LOC, (ii) the remaining balance of the LOC, bond, or cash payment posted by the transferring School shall be returned to the transferring School by the Escrow Agent, and (iii) the transferring School's LOC or bond shall automatically expire and terminate. If any School sells or transfers the Property to a transferee that changes the use of the Property to a use other than a School, then upon said change of use (i) the provisions of this Section 10 shall automatically lapse and terminate, (ii) the remaining balance of the LOC, bond, or cash payment shall be returned to the transferring School, and (iii) the transferring School's LOC or bond shall automatically expire and terminate.

The prevailing party in any litigation hereunder and/or under the Restrictive Covenant shall be entitled to reasonable attorneys' fees actually incurred in the enforcement or defense of this Restrictive Covenant.

11. **Enforcement of Restrictive Covenant.** If Owner violates this Restrictive Covenant, it shall be lawful for the HPNA to enforce this Restrictive Covenant through, but not limited to, a claim for injunctive relief against Owner. Prior to filing a claim for violation of this Restrictive Covenant, including a claim for injunctive relief, the HPNA must provide Owner with written notice of the alleged violation. Within ten (10) days after receiving such notice, Owner shall send a written response to the HPNA informing it what actions, if any, Owner plans to take in order to remedy the alleged violation(s). If Owner notifies the HPNA that Owner intends to cure the alleged violation, then Owner shall have a reasonable period of time, not to exceed thirty (30) days from the date of receiving initial notice of such violation (or if such violation cannot be cured within thirty (30) days despite Owner's best efforts, then as long as reasonably necessary, provided that Owner submit to the HPNA, every thirty (30) days until the violation is cured, a summary of the steps Owner has taken to cure the violation and Owner's estimated time of completion) in which to cure the alleged violation, during which period, if Owner timely commences the cure and is using best efforts to expeditiously cure the violation, the HPNA shall not seek an injunction and shall not proceed with filing suit against



Owner. If Owner fails to cure the default within the thirty (30) day cure period, or extended period, as applicable, then the HPNA may seek the injunction and file suit. The HPNA hereby agrees and acknowledges that the Owner's obligations under Sections 3, 4, 5, 7 and 9 of this Restrictive Covenant are limited to implementing the restrictions provided therein and reasonably enforcing such restrictions when a violation is brought to the attention of the School. The Owner shall not be in default under Sections 3, 4, 5, 7 and 9 of this Restrictive Covenant for the failure of a student or parent to abide by the parking and traffic regulations so long as the Owner has satisfied its obligations for implementing and reasonably enforcing the parking and traffic regulations.

12. **School Year.** The parking and traffic rules and regulations contained in Sections 3, 4, 5, 7, and 9 herein shall only apply to the School's core school program during the academic school year. Provided, however, Section 3 shall apply to any of the School's non-core programs and summer programs which have an enrollment of 100 individuals or more.

13. **Bond for Injunction.** Owner and HPNA hereby agree that the amount of \$100.00 has a sufficient relationship to the potential damages claimed for alleged wrongful injunction and waive any argument that said amount is insufficient as a bond for injunctive relief.

14. **Automatic Termination of Restrictive Covenant Upon Non-Approval by City of Austin.** If (i) Owner does not receive final approval of the Variance, (ii) Owner does not obtain final approval of the CUP, or (iii) the Variance and the CUP are approved, but the School is not permitted to enroll 125 students, this Restrictive Covenant shall be rendered null and void. As used herein "final approval" means that the Variance and/or CUP have been approved by all necessary bodies and no appeals were filed prior to the expiration of the applicable appeals periods.

15. **Successors and Assigns.** This Restrictive Covenant shall run with the land and be binding upon any successors and assigns of Owner to the extent such successors and/or assigns continue to use the Property as a secondary school.

16. **Entire Agreement.** This Restrictive Covenant constitutes the entire agreement between the parties and supersedes any prior understanding or written or oral agreements between the parties concerning the subject matter of this Restrictive Covenant.

17. **No Third Party Beneficiaries.** This Restrictive Covenant does not and is not intended to confer any rights or remedies upon any person or legal entity other than the HPNA.

18. **Governing Law and Venue.** The laws of the State of Texas shall govern this Restrictive Covenant. Venue for all purposes shall be Travis County, Texas.

19. **Automatic Termination Upon Change of Use.** This Restrictive Covenant and all of the terms and obligations of Owner hereunder are applicable only to a Secondary School use on the Property, as Secondary School is defined in the City Code of the City of Austin. If the use of the Property is changed to a use other than Secondary School Use this Restrictive Covenant shall automatically terminate and the then current owner of the Property may unilaterally record a termination of this Restrictive Covenant in the Real Property Records of Travis County, Texas.

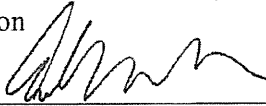


20. **Modification**. Except as otherwise provided herein, this Restrictive Covenant cannot be amended, modified or waived, in whole or in part, as to any portion of the Property except pursuant to a written agreement recorded in the Real Property Records of Travis County, Texas and executed by Owner and HPNA, or their respective successors and assigns.

EXECUTED as of the Effective Date first written above.

**OWNER:**

THE GRIFFIN SCHOOL, INC., a Texas nonprofit corporation

By:   
Name: Adam Wilson  
Title: Director

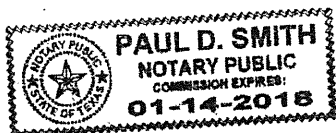
STATE OF TEXAS


COUNTY OF Travis

§  
§  
§

This instrument was acknowledged before me on September 14<sup>th</sup>, 2015, by Adam Wilson, Director of The Griffin School, Inc., a Texas nonprofit corporation, on behalf of said nonprofit corporation.

[Seal]



  
Notary Public in and for the State of Texas

My commission expires: 1-14-2018

*Signatures continue.*

HPNA:

THE HYDE PARK NEIGHBORHOOD  
ASSOCIATION

By: Kevin Heyburn  
Name: Kevin Heyburn  
Title: Co-President

STATE OF TEXAS

§  
§  
§

COUNTY OF TARRANT

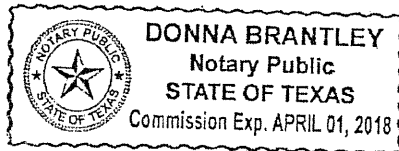
This instrument was acknowledged before me on Sept. 18, 2015, by Kevin Heyburn, Co-President of the Hyde Park Neighborhood Association, a Texas nonprofit corporation, on behalf of said nonprofit corporation.

[Seal]

Donna Brantley  
Notary Public in and for the State of Texas

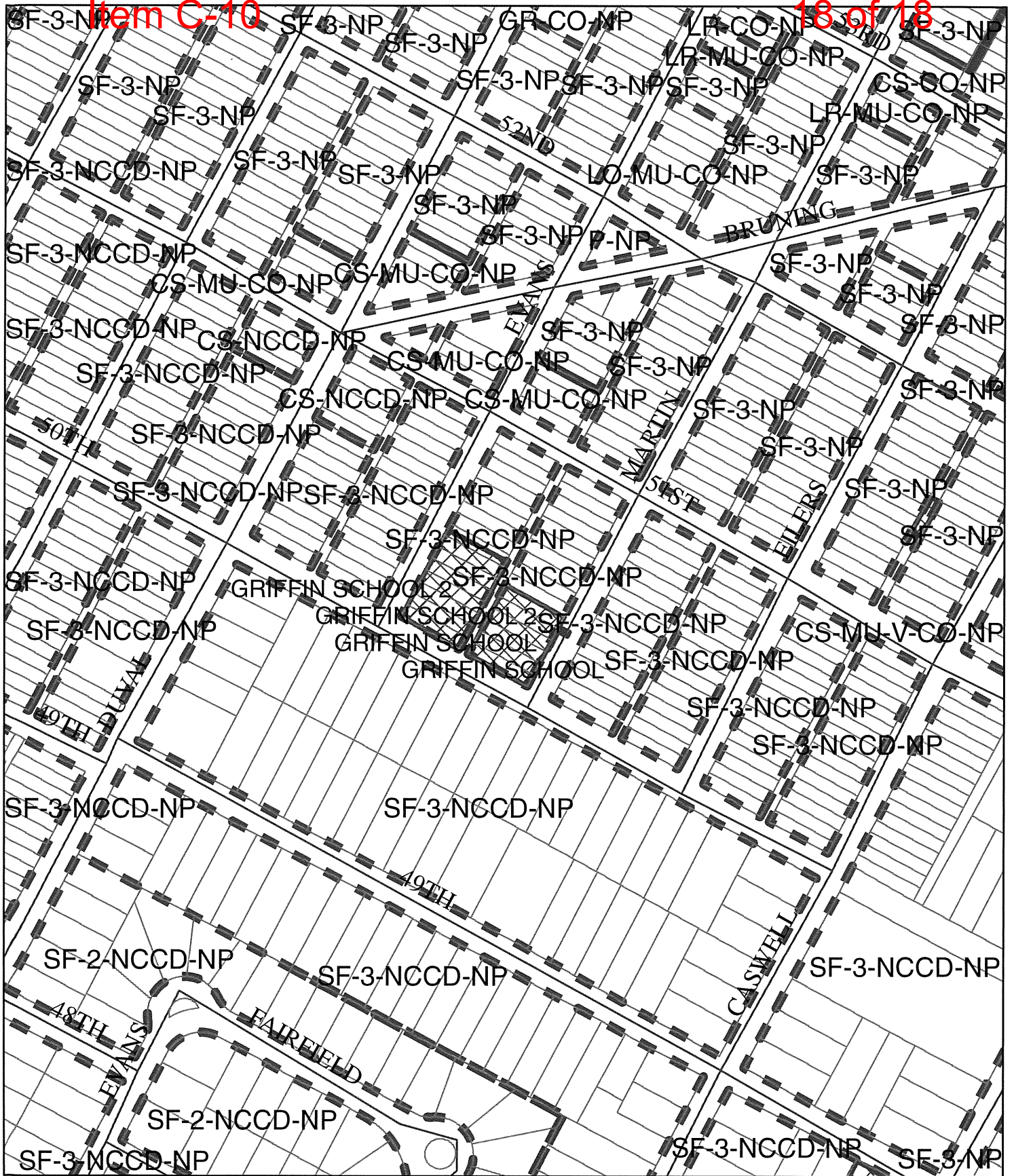
My commission expires:

4-1-18



AFTER RECORDING, RETURN TO:

Nikelle Meade  
Husch Blackwell LLP  
111 Congress Ave., Suite 1400  
Austin, TX 78701



0 55 110 220 Feet

**CONDITIONAL USE PERMIT  
GRIFFIN SCHOOL 2**

CASE NO.: SPC-2015-0190A  
ADDRESS: 5001 EVANS AVENUE  
CASE MANAGER: MICHAEL SIMMONS-SMITH

