

From: [Daniel Kennedy](#)
To: [*CI-StPaul Contact-Council](#)
Cc: [Marc Manderscheid](#); [Tom Darling](#)
Subject: Agenda Item #35, St. Thomas CUP violation
Date: Friday, February 28, 2025 4:31:40 PM
Attachments: [ARD Comment 250228 on UST CUP.pdf](#)

Good afternoon,

Attached please find a submission by the Advocates for Responsible Development regarding Item #35 on the 3/5/2025 city council agenda regarding the violation by the University of St. Thomas of its conditional use permit.

Sincerely,

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Submission re: St. Thomas Noncompliance With CUP



TO: City of St. Paul City Council
FROM: Advocates for Responsible Development,
info@advocates4rd.org
RE: University of St. Thomas noncompliance with its CUP
Date: February 28, 2025

Advocates for Responsible Development (ARD)¹ is submitting this input to the City Council regarding an agenda item on March 5, 2025: 24-078-362 University of St Thomas Review of CUP / Review of a conditional use permit (ZF #04-054-501) for noncompliance of Planning Commission conditions.

Below are listed some items that are important to note at the outset:

1. In March 2004, The Summit Avenue Residential Preservation Association (SARPA) sued the City of St. Paul regarding the plans of the University of St. Thomas (UST, or university) to expand its campus. To resolve that litigation, all interested parties agreed to a negotiated settlement agreement called the “Release of All Claims.” It is attached to this submission. The parties were the City of St. Paul, UST, SARPA, Merriam Park Community Council (now Union Park District Council), and Macalester-Groveland Community Council. By agreeing to the settlement, UST gained permission to expand its campus.
2. One of the specific provisions (paragraph 2) of the Release of All Claims was that its terms would be incorporated into a conditional use permit to be approved by the City. The lawsuit would not be dismissed unless the City approved the CUP.
3. Paragraph 16 of the negotiated settlement stated:

Goodrich Ave. Access. At such time as the University remodels or replaces the Binz Refectory or replaces Grace Hall, the loading drive which currently exists between Goodrich Ave. and the Binz Refectory shall be removed, such that there shall be no vehicular access from Goodrich Ave. to any of the University’s buildings on the south campus.
4. The City Council unanimously approved the CUP (with the same paragraph 16) on August 11, 2004. SARPA dismissed its lawsuit.
5. The Release of All Claims provides that any party to it may bring a lawsuit to enforce the terms of the CUP and may collect attorney fees if it prevails.

¹ Advocates for Responsible Development is a 501(c)(3) nonprofit organization that was formed in October 2023 after UST announced its plans to build an arena on the South Campus. ARD currently has more than 300 members, including UST students and faculty members.

6. In 2022 and again in 2023, UST remodeled the Binz Refectory (Binz). UST does not deny that it remodeled Binz. The university pulled 10 permits for work exceeding \$1 million and called the project a “remodel” on those permits.
7. UST has not removed the driveway (Goodrich Driveway) from Binz to Goodrich Avenue.
8. On May 9, 2024, a formal complaint was filed with the City stating “UST was required to remove a service driveway from Goodrich Avenue to a building then called the Binz Refectory when it remodeled the building. UST remodeled both floors in 2022-23, yet still has not removed the service drive.” Staff Report on File #24-078-362, at 4.
9. On July 1, 2024, the Department of Safety and Inspections (DSI) ordered UST to remove the driveway from Binz to Goodrich Avenue by July 31, 2024 on the basis that (a) UST had remodeled Binz; (b) UST had not removed the Goodrich Driveway; and (c) failure to remove the Goodrich Driveway after remodeling Binz violates UST’s CUP. *Id.* at 5-6.
10. UST did not appeal the order from DSI, and it is therefore now legally established that UST remodeled Binz and is in violation of the CUP.

I. THE PLANNING COMMISSION SHOULD NOT AMEND THE CUP.

After the Department of Safety and Inspections ordered UST to remove the Goodrich Driveway, UST sought approval of an amendment to the CUP so that the Goodrich Driveway may remain and operate in the same way it has been operating since it was installed in 1978. By a vote of 10-3-1, the Planning Commission denied approval of the amendment. UST has appealed. For the reasons below, the City Council should uphold the Planning Commission’s denial of the amendment.

A. This was the settlement of a lawsuit and is binding on UST and the City

UST’s 2004 CUP has a unique procedural history and posture that distinguishes it from many CUPs. It is uncommon that a CUP would result from the settlement of a lawsuit. In this particular case, the terms of the CUP were the subject of a lawsuit that involved the City, UST, and SARPA. **All parties are bound, including the City.** The City generally has plenary authority to decide whether and how to enact zoning controls, provided that the City must comply with state law. No provision of St. Paul or Minnesota law prohibits the City from voluntarily entering into a binding agreement with a private party to enact a zoning control and then to enact the agreed-upon zoning control (providing that the zoning control itself does not violate applicable law). In that case, the City is required to comply with the terms of its agreement, and voluntarily cedes the power to changing the zoning control (unless the agreement is subsequently amended). In this case, the City does not have the freedom to unilaterally amend the mutually agreed-upon CUP and would be in violation of the Release of All Claims if it did. This is more than just general guidance: the terms of the CUP were specifically stated. If the City were to amend the CUP, it would open itself up to a contract enforcement lawsuit from SARPA, the Union Park District Council, and/or the Macalester-Groveland Community Council. The plaintiff(s) in such a lawsuit could collect their attorney fees from the City as well. This would be a wasteful use of the City’s resources.

It is also important that this CUP was not “imposed” upon UST (as UST now claims); UST negotiated and agreed to the CUP. With respect to Paragraph 16, UST committed that it would design future projects that included remodeling in such a way that it would not need the Goodrich Driveway and would remove it. Spending over \$1 million to remodel Binz and over \$175 million to build an adjacent arena and then claiming that it lacks the wherewithal to build a driveway to Binz is absolutely bad faith — both to the City government and to the community.

If the City amended the CUP, could SARPA reinstitute its lawsuit? No, it was dismissed 20 years ago and SARPA must live without the rights it ceded by entering into the settlement agreement with the City and UST. Likewise, the City and UST must live with the CUP.

B. The CUP balances UST’s needs with the community’s needs

Paragraph 16 has two distinct parts, both triggered by UST’s remodeling of Binz. First, UST must remove the Goodrich Driveway. Second, UST may not have any vehicular access from Goodrich Driveway. These two parts must be discussed separately because UST is trying to divert attention from the second part.

The first part is straightforward. UST’s use of residential Goodrich Avenue for its commercial purposes disrupts the neighborhood. It invites trucks to traverse the street, creating noise, pollution, and a safety hazard for children. All of the trash generated by Binz, Brady Hall, and Grace Hall is being removed through the Goodrich Driveway. Students drive around campus to Goodrich to access Grace Hall, and the Goodrich Driveway is a popular drop-off point for UST’s athletic facilities. Many Uber/Lyft/taxi pickups and drop-offs occur in the driveway. Nearby residents, acting through SARPA and their community councils, raised their objections to UST in 2004, stating that a residential street is no place for UST’s commercial activities. UST agreed and committed to remove the Goodrich Driveway, but extracted a concession that UST could wait until it remodeled or removed Binz or Grace Hall. UST waited 20 years, but it finally remodeled Binz. The neighbors have waited long enough for the removal of the Goodrich Driveway.

The same issues spurred the agreement that UST would have no access to campus from Goodrich Avenue. All of the CUP amendment drafts proposed by UST delete this important requirement that Goodrich Avenue be returned to its residential character. This deletion would leave UST free to open other access points from Goodrich Avenue, which is exactly what it agreed in 2004 not to do. Eliminating UST access from Goodrich Avenue is extremely important as UST builds a 5,500-seat arena, as the arena doors would not be far away.

Living next to a university presents challenges and requires compromises from both the university and from residents. Current challenges include stadium noise amplification, a proliferation of oversized duplexes for student housing, and illegal parking. A sizable additional burden is assessments for repairs to the 100% brick Goodrich Avenue, for which UST’s trucks cause most of the wear but UST pays no assessments. Where the university is receptive, these issues may be resolved by agreements that both the university and the residents can live with. It maintains a balance that both find acceptable, if not ideal. The agreement may even entail extra

expense or delays. The 2004 CUP entailed both; UST may have to spend money to include access to Binz in its remodeling plans, and the neighbors allowed UST to postpone the removal of the Goodrich Driveway until it was already investing in that part of campus.

The City Council should preserve the balance represented in the 2004 CUP and refrain from amending the CUP.

C. It is settled that UST's work was a "remodel" (because it was and UST didn't appeal)

The Planning Commission rejected outright the concept that UST did not remodel Binz, for two reasons. Nonetheless, UST's attorney Tammera Diehm wrote to the City Council on February 26, 2025 to assert that Paragraph 16 is ambiguous and suggest that UST's remodeling of Binz was not the type of remodel meant by Paragraph 16. The argument contradicts the plan facts, but is also irrelevant because UST never objected to DSI's determination of the violation.

As part of the remodel, UST and its contractors pulled the following permits:

Year	Permit #	Contractor	Work (as described in permits)
2022	20 22 085078	Collins Electrical	• Fire Alarm System Remodel Binz Refectory • Partial Floor Remodel in The Binz Building On The South Campus At Ust (no stated value)
2022	20 22 088212	Total Mechanical	• Commercial Alter (\$22,000 value)
2022	20 22 082764	Collins Electrical	• Binz Athletics Remodel (\$100,000 value)
2022	20 22 066784	Ryan Companies	• Remodel of a portion of the Binz Building to accommodate athletic offices, team rooms and addition of unisex bathrooms (\$20,000 value)
2022	20 22 074023	Ryan Companies	• Remodel of a portion of the Binz Building to accommodate athletic offices, team rooms and addition of unisex bathrooms (\$795,000 value)
2023	20 23 103724	Ryan Companies	• Remodel lower level into dry locker rooms and laundry closet (\$250,000)
2023	20 23 107519	Horwitz LLC	• Re-routing existing steam lines and connecting to existing systems (St Thomas Bldgs: FDD, Grace, Binz, Brady, Cretin). (\$1,046,033 value)
2023	20 23 104416	Horwitz LLC	• UST Binz hall. Installing 1 floor sink. (\$3,500 value)

2023	20 23 104295	Horwitz LLC	• Binz hall. Altering existing supply ductwork to accommodate new spaces. Installing a new exhaust fan and associated ductwork. All work is being done on the basement level space. (\$85,000 value)
2023	20 23 109872	Collins Electrical	• Commercial Repair / Alter (\$9,000 value)

Ms. Diehm states that some of the above ten permits referred to the project as “minor remodel.” That is true for two of them, but they also on the same page state that the work type is to “remodel” (without the word “minor”) and the combined project cost for those two permits exceeds \$1,000,000, indicating there was nothing minor about the project.

The text of Paragraph 16 also includes no minimum threshold below which a remodel would not require removal of the Goodrich Driveway. Whether or not UST requested that in negotiations, the agreed-upon language applies to all remodel work.

Upon receipt of DSI’s letter of July 1, 2024 determining that UST’s remodel triggered the requirement to remove the Goodrich Driveway, UST could have filed an appeal and the matter would have been determined by the Planning Commission, or perhaps the City Council if appealed further. UST chose not to appeal, and the determination that UST’s work constituted a remodel as referred to in Paragraph 16 is final.

D. UST does not need the Goodrich Drive

On February 26, 2025, UST’s attorney Tamera Diehm wrote a letter to the City Council in which she acknowledges that UST will deliver catered meals through Binz’s north entrance. Delivery of food to Binz was the reason the Goodrich Drive was constructed, and that need no longer exists. UST does not need a loading dock for deliveries to the athletic offices and locker rooms that now share Binz with the dining room for seminarians.

Because UST no longer has a need for the Binz loading dock, UST should have complied with its CUP and removed the Goodrich Drive in 2022. UST’s fight to maintain access from Goodrich Avenue would seem puzzling except that UST greatly desires to tie in Goodrich to its new construction. Currently, this would include its arena. But UST’s plans have long included the replacement of Binz and Grace Hall with a new residence, and Goodrich Avenue could serve as that development’s main access point. This could be similar to Tommie North Hall (recently renamed Schoenecker Hall) on the North Campus, accessed from Cleveland Avenue (County Road 46), shown here:



This is the kind of development UST was planning in 2004, and the kind of development that UST promised would have no access from Goodrich Avenue. UST said in 2004 that it does not need Goodrich access for future development, and it now says it does not need it for Binz's current needs. There is no excuse for UST's refusal to remove the Goodrich Drive.

E. No safety issue exists

Ms. Diehm also wrote a letter on December 5, 2024 claiming that the Goodrich Driveway is "important for health and safety reasons." The letter claims that fire trucks cannot drive between Binz and Grace Hall because it is too narrow, and cannot drive between Binz and Brady Hall because a sidewalk exists there.

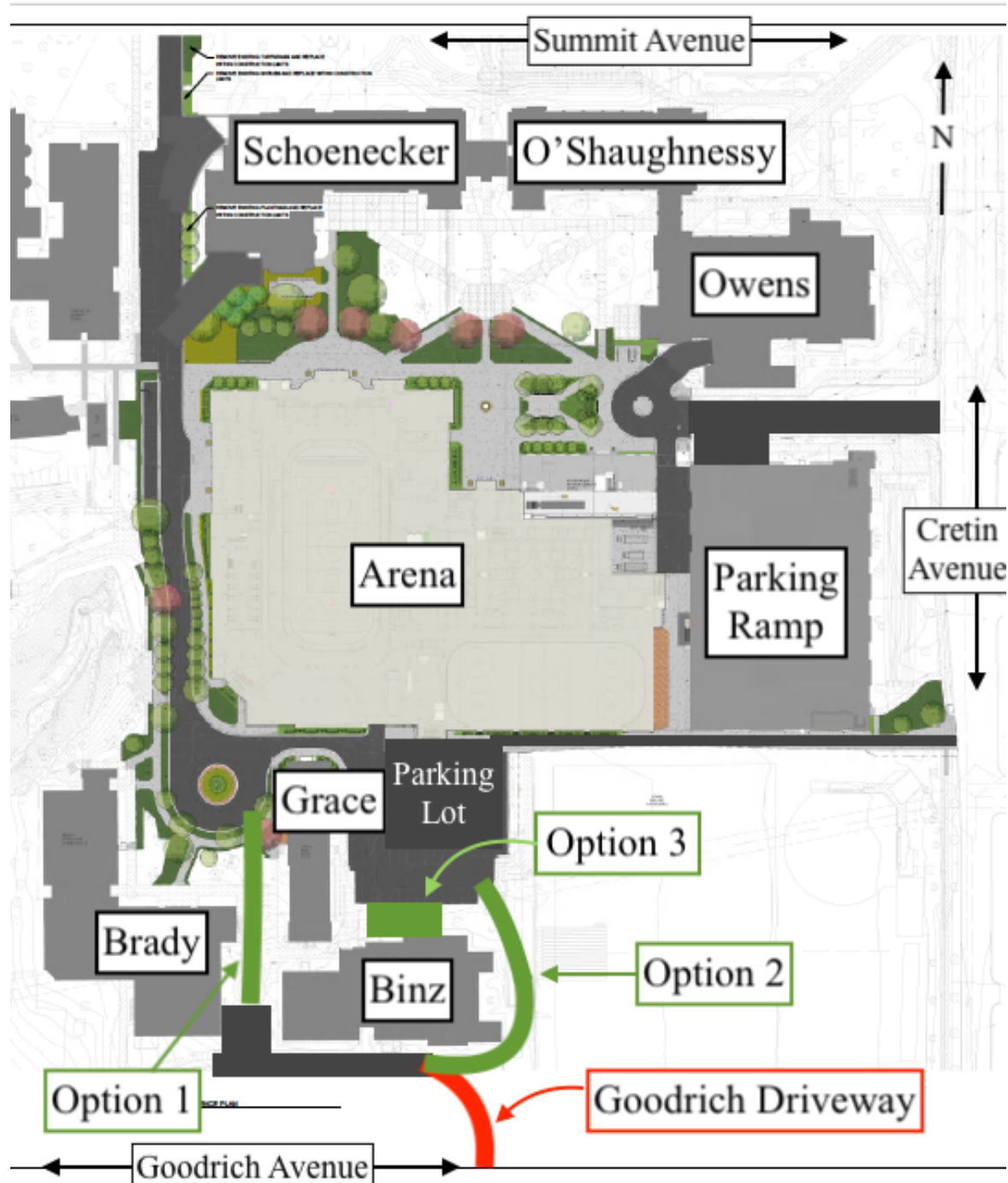
UST is attempting to create a false need by asserting that emergency vehicles must be able to nearly circle Binz. There is no other building on the South Campus that vehicles of any kind can drive around. Newly constructed Schoenecker Center has vehicular access at only one corner. Adjacent O'Shaughnessy Science Hall has no vehicular access at all. The next adjacent building in that row, Owens Hall, has vehicular access at only one end. No fire code or any other code requires circumnavigation.

UST does not deny that emergency vehicles using the new Cretin Avenue access will be able to drive right to the front door of Binz (on the north side) and provide services through that access. That is better access than they have to most UST buildings. In addition, fire trucks can access the south side of Binz from Goodrich Avenue without a driveway, just as they would access Schoenecker, O'Shaughnessy, and Owens Hall from Summit Avenue; access from the street is the usual means of providing fire protection, and the St. Paul Fire Department is adept at doing so.

Even if access is required on the south side of Binz, UST can easily provide it. The diagram on the next page shows how UST can install a road around either the east or west side of the building to drive from inside the campus to the south side of Binz. Option 1 offers a 46-foot-wide berth between buildings, enough to fit four fire trucks side by side (or one spacious emergency lane, wide sidewalks on both sides, and more than twenty feet of landscaping to safely separate traffic from pedestrians). Option 2 shows a drive passing easily around the east

end of Binz, where there are no buildings. Or, if emergency access from the front door meets UST's needs as well as it meets code, UST could utilize Option 3 from its existing parking lot.

UST is trying to create a false need in the name of safety, but its existing access meets code and UST's needs. If UST wants more extensive access, it could easily install a short access drive around Binz.



F. UST bears full responsibility for providing access

It is fully UST's responsibility to resolve its claimed problem. For 20 years, UST has known that the remodeling of Binz would trigger its obligation to remove the Goodrich Driveway.

UST did not complain in 2004 that removing the Goodrich Driveway would be impossible; it knew that it can easily provide access to Binz from its north side. To the contrary, UST indicated that removal of the Goodrich Driveway was possible when it explicitly agreed to remove it. How UST meets its internal needs while removing the Goodrich Driveway is up to UST; three options are offered above but UST may have others. A

No change has occurred on UST's South Campus over the last 20 years that made removal of the Goodrich Driveway impossible. These buildings have not moved; if it is impossible now, it was impossible in 2004 when UST bargained with the neighbors and the City for all of the benefits it received by being able to expand its campus footprint as allowed in the 2004 CUP. If it was impossible in 2004, UST committed to make it possible by making whatever changes to its campus necessary to be able to remove the Goodrich Driveway. That was UST's commitment, and that is UST's responsibility. The City and its citizens have no obligation to relieve UST of its duty.

G. Amending the CUP is incompatible with the Zoning Code

Policy LU-54 of the City's 2040 Comprehensive Plan is to "Ensure institutional campuses are compatible with their surrounding neighborhoods by managing parking demand and supply, maintaining institution-owned housing stock, minimizing traffic congestion, and providing for safe pedestrian and bicycle access." On Goodrich Avenue, "minimizing traffic congestion" means terminating UST's commercial use of the residential. "Providing for safe pedestrian and bicycle access" means elimination of truck traffic serving UST's campus.

Section 61.502 of the St. Paul Zoning Code allows the City to amend conditional use permits:

The planning commission, after public hearing, may modify any or all special conditions, when strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.

This requirement has three elements: unreasonable limitations on use; exceptional undue hardship; and consistency with the welfare of the community. UST's proposed amendment must meet all three tests, but instead fails all three.

Limitations on use: As shown above, UST can access Binz's front door directly from the existing parking lot (Option 3). If UST wants access to the south, UST can install a driveway around

either side of the building. Even if access were not so easy, UST committed to include access (to the extent it wants it) when it agreed to remove the Goodrich Driveway. UST cannot now complain that the many millions it is spending will not achieve the objective that UST agreed in 2004 to achieve.

Hardship: Because UST has multiple options for accessing Binz, there is no hardship. Even if no such options existed, UST agreed to bear the cost and arrange its campus so that the Goodrich Driveway could be removed. UST's voluntary decisions as to its campus configuration cannot create an "exceptional undue hardship" when it comes to complying with a legal obligation it entered into 20 years ago.

Welfare of the community: The health and general welfare of the community is served by removing UST's traffic from Goodrich Avenue. Children will be safer, the air quality will be better, and congestion will decrease. Residents, who have counted on the driveway removal, will at last be able to enjoy their properties more fully. UST agreed that removal of the driveway would benefit the adjacent residents when it recognized their complaint and agreed to a solution twenty years ago.

In the case of violations of a CUP, Section 61.108 allows the Planning Commission to "impose additional conditions, modify existing conditions, or delete conditions which are deemed by the commission or the board to be unnecessary, unreasonable or impossible of compliance." Alternatively, the commission may require that the use be discontinued. *Id.* UST cites section 61.108 in its plea for relief, but Paragraph 16 is not unnecessary, unreasonable or impossible of compliance. ARD's 300+ members include 100% of the neighbors on Goodrich Avenue on the block facing Binz, and the find that removal of the Goodrich Driveway is necessary and long overdue. They cite the ongoing St. Thomas traffic using the driveway and the noise and safety issues arising from that use. Given UST's acknowledgement that it does not need Binz's loading dock, they recognize that UST's push to retain the driveway has nothing to do with deliveries to Binz. The question of whether Paragraph 16 is "unnecessary, unreasonable or impossible of compliance" was settled by UST's specific agreement to the language: UST recognized the necessity to the neighbors, found that it would be reasonable to comply, and committed to undertake the necessary measures to remove the driveway.

UST does not meet the required elements for an amendment of the CUP. The City Council should deny UST's request for an amendment and should vigorously enforce the CUP.

II. GIVEN UST'S FAILURE TO REMOVE THE GOODRICH DRIVEWAY, THE CITY COUNCIL SHOULD REFER THE MATTER TO THE PLANNING COMMISSION FOR REVOCATION OF THE ARENA SITE PLAN

UST was required to remove the Goodrich Driveway in 2022, when it remodeled Binz the first time. It was required to remove the drive in 2023 when it remodeled Binz the second time. UST was required to remove the drive in 2024 when DSI ordered its removal, and UST did not appeal. Nonetheless, the driveway still exists and is in use.

The continued use of the Goodrich Driveway was also part of the site plan for the Lee and Penny Anderson Multipurpose Arena. When the site plan was being approved by the Planning

Commission and City Council, PED staff told those bodies to ignore the Goodrich Driveway issue because no formal complaint had been filed. Things are different now. The appropriate remedy for UST's refusal to remove the Goodrich Driveway as required is for the Planning Commission to revoke the site plan.

It is not the policy of the City of St. Paul to condone violations of conditional use permits. The site plan — which was approved after the remodel was completed — incorporates UST's CUP violation. The City should revoke the arena site plan so that UST can come back to the City with a site plan that complies with its CUP. The alternative stated in section 61.108 — termination of UST's use due to its violation of the CUP — is more drastic and would surely result in UST's immediate compliance with its obligations under the CUP.

CONCLUSION

UST has not identified any error that the Planning Commission made when it rejected UST's attempt to escape from the legal obligations it voluntarily assumed in 2004. The purpose of an appeal to the City Council is to identify such errors, and UST has failed to do so.

There are times when citizens, acting through their officially designated community councils, express their will and enter into agreements that are binding. When those agreements are with the City, the citizens rely on decision makers within the City government not just to uphold those agreements, but to enforce those agreements. This is one such time. The citizens expect that the City Council will enforce the agreed terms of the CUP and reject UST's request for an amendment. If the matter is referred to the Planning Commission for revocation of the arena site plan and UST returns with a new site plan that continues to violate the CUP, the Planning Commission can – and should – deny approval.

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From: marcmanderscheid@comcast.net
To: [CouncilHearing \(CI-StPaul\)](#)
Subject: March 5, 2025 Agenda Item 34, University of St. Thomas appeal of Planning Commission Decision Requiring Goodrich Avenue Driveway Removal
Date: Friday, February 28, 2025 11:47:01 AM
Attachments: [UST Comments - Marc Manderscheid.pdf](#)

You don't often get email from marcmanderscheid@comcast.net. [Learn why this is important](#)

THE SAINT PAUL CITY COUNCIL SHOULD ENFORCE UST'S COMMITMENT
TO REMOVE THE GOODRICH AVENUE DRIVEWAY

1. The History behind Paragraph 16 of the Conditional Use Permit Approved by the Saint Paul City Council on August 11, 2004.

In St. Paul, whenever a university proposes to expand its campus it is required to prepare an "Anticipated Growth and Development Statement." In January 2000, the University of St. Thomas ("UST") issued a "Growth and Development Statement" announcing its intent to expand the campus boundaries, construct five (5) new academic buildings, and add hundreds of housing units. As to UST's South Campus, the University stated that it intended to demolish the Grace and Cretin Dormitories and replace them with new South Campus residence halls, and to remodel the Binz Refectory (a "refectory" is "a dining hall in a religious house, a college, or other institution." Dictionary.com).

In October 2003, the University issued a new report "Building for the Future; An update for Neighbors." This document projected "New residence halls to replace Ireland, Cretin and Grace halls" along with "Renovation or expansion of Binz Refectory for dining and support services." UST's March 5, 2004 revised "Anticipated Growth and Development Statement," proposed "New residence halls to replace ... Cretin and Grace Halls on the south campus. There is no timetable for these projects, although construction of the south campus halls could occur before 2009," and "renovation or expansion of Binz Refectory for dining and support services on the south campus. There is no timetable for this project."

The University's announced intention to develop new South Campus dormitories raised significant concerns to those persons residing south of Goodrich Avenue and between Cretin Avenue and Mississippi River Blvd. The University's campus occupies the entire northern side of Goodrich Avenue, while the entire southern side is lined by single family homes. There was a curb

cut on the north side of Goodrich Avenue and a driveway which led directly to the loading dock for the Binz Refectory and ending at the dock for the Brady Music Center.

For years, neighbors had been troubled by the daily use of the Goodrich Avenue Driveway by large vehicles making deliveries to or pickups from the Binz and Brady buildings, which was a hazard to children and families residing in that area. Moreover, many times the deliveries took place very early in the morning, with the vehicle engines noises and horn honking ruining a good night's sleep.

Neighbors were very concerned that when St. Thomas built its proposed new dormitories north of Binz, the University would expand the Binz driveway as a new entrance to UST's South Campus. The specter of having a driveway open 24 hours a day to students and deliveries along Goodrich Avenue would create a specter of even more safety issues and worsen the already existing disruption to the neighborhood.

After UST first announced its campus expansion plans, the Macalester/Groveland Community Council formed a Task Force to respond to the University's request for a new conditional use permit. Marc Manderscheid, a Goodrich resident living east of Cretin, was a member and Co-Chair of the Task Force for several years. Douglas Hennes was UST's Vice President for University and Government Relations. Over the years, Mr. Manderscheid and Mr. Hennes had many candid discussions concerning UST's proposals.

In Spring 2004, Mr. Manderscheid asked Mr. Hennes if the University would remove the Goodrich Avenue driveway as a part of its proposed South Campus changes. After discussion with other University officials, Mr. Hennes reported to Mr. Manderscheid that "Yes, the University agrees to close the Goodrich Avenue driveway." He further replied, however, that since the University was not then doing any construction on the South Campus, it did not want to go to the

expense of the Goodrich Avenue Driveway removal and construction of a new access from the north as a stand-alone project. Instead, Mr. Hennes proposed that the Goodrich Avenue driveway be removed and a new access drive to the Binz and Brady loading docks from the north, be constructed as a part of the University's future South Campus construction project. In 2004, the timetable for the construction appeared to be within a few year's time. Mr. Manderscheid responded, saying this seemed a reasonable request, but that we should settle on some definite guidelines so that the University and its neighbors would know for certain when the time had come for the Goodrich Avenue Driveway to be removed. Mr. Hennes suggested that the trigger for driveway removal be whenever the dormitory to the north of the Binz building, Grace Hall, was removed or whenever the University either did some remodeling to or removed the Binz Refectory.

Mr. Manderscheid thereafter drafted, and Mr. Hennes agreed, that the following language would govern the future Goodrich Avenue Driveway removal:

South Campus. At such time as the University remodels or replaces the Binz Refectory or replaces Grace Hall, the loading drive which currently exists between Goodrich Ave. and the Binz Refectory shall be removed, such that there shall be no vehicular access from Goodrich Ave. to any of the University's buildings on the South Campus.

In May 2024, the language agreed to by Mr. Hennes and Mr. Manderscheid was incorporated by Mr. Manderscheid into a draft "Resolution of the Macalester-Groveland Community Council Regarding a Conditional Use Permit for the University of St. Thomas."

By the summer of 2004, the University and its neighbors continued to be at loggerheads concerning the scope of UST's campus expansion and redevelopment. A lawsuit against the City and the University was filed by the Summit Avenue Residential Preservation Association ("SARPA"). In late June, 2024, City Council Member Jay Benanav requested that all of the parties make one last attempt to arrive at a negotiated resolution of the parties' differences, before the

matter would go to the Saint Paul City Council for a final resolution. In response to Councilmember Benanav's request, on July 16, 2004, Mr. Manderscheid sent Mr. Benanav the text of five paragraphs which could be a part of resolving the dispute, including the language which ultimately ended up as Paragraph 16 of the 2004 Conditional Use Permit ("2004 CUP").

In late July 2004, there were several in-person meetings of representatives of all the neighborhood groups and the University, presided over by Council Member Benanav. Through this process, all of the parties reached a comprehensive, mutual agreement concerning the scope of and conditions for the University's expansion and redevelopment, including Paragraph 16, which called for the removal of the Goodrich Avenue Driveway whenever the Binz Refectory would be remodeled or replaced.

The Saint Paul City Council approved UST's compromise with its neighbors on August 11, 2004, Council File 04-792 (pages 12-18 of Staff Report). The 2004 CUP included language desired both by UST and all of the neighborhood groups. See the WHEREAS Clauses. The 2004 CUP concludes: "Violations of the Conditions of this permit may result in its revocation."

In addition to agreeing on the language in the 2004 CUP, the City, UST, SARPA, the Macalester/Groveland Community Council, and the Merriam Park Community Council, each executed a separate "Release of All Claims," binding each of the parties to all of the terms of the mutually accepted compromise agreement (pages 89-98 of Staff Report), including the statement: "This release contains the entire agreement between the parties hereto and the terms of this Release are contractual and not a mere recital."

On October 6, 2004, after the negotiations were concluded, the Reverend Dennis Dease, the President of the University, sent me a letter thanking me for my involvement in the negotiations. He summarized the agreement reached with the neighborhood organizations as

follows: “It was gratifying to reach an agreement that both allows the university to meet its building needs and protects the vitality of the residential neighborhood.”

2. The City’s DSI Staff and Planning Commission have Correctly Concluded that the Binz Building has Been Remodeled, thus Requiring UST to Remove the Goodrich Avenue Driveway.

On June 28, 2022, Ryan Companies, UST’s design/build contractor, applied to the City of Saint Paul for a Building Permit to “Remodel a Portion of the Binz Building to Accommodate Athletic Offices, Team Rooms, and Addition of Unisex Restrooms”. Note how the name of the structure had changed to the “Binz Building.” Building Permit No. 20 22 074023 set forth an estimated start date of July 11, 2022, and a completion date of September 9, 2022.

The construction plans for the Binz Building Remodel Project show the demolition of approximately one-half of the existing improvements on the first floor of the Binz Building and their replacement by seven new coaches’ offices (Head Coach and 6 Assistant Coaches), an Administration Open Office, Administrative Lounge, a Conference Room (12 seats), Team Room (30 seats), and three Unisex Restrooms. Building Permit No. 20 22 074023 estimated the value of this part of the Ryan’s work at \$795,000. Two days later, on June 30, 2022, Ryan Cos. Applied for demolition permit No. 20 22 066784, with an estimated cost of \$20,000. Thus, the two summer 2022 “Building Permits” total \$805,000.

The above permits are the only 2022 permits identified in the Zoning Committee Staff Report dated November 13, 2024. On November 10, 2024, I sent Mr. Williams an email notifying him that the City’s Enforcement Notice had only included “building” permits and “do not include Electrical, Plumbing, Warm Air, Mechanical, or any other type of construction or remodeling permits.” I requested the City to include all of the permits in the upcoming Staff Report, including, 20 220 82764 (electrical) \$100,000; 2022 0844933 \$13,000; 2022 085484 \$4,000; and 2022 088212 \$22,000. Altogether the permits for the first floor Binz work exceeded \$950,000.

In December 2022, Horwitz LLC was issued Warm Air, Ventilation & General Sheet Metal Permit No. 20 23 104295, as part of a substantial remodeling of the basement level of the Binz Building to “install a new exhaust fan” and “supply ductwork to accommodate new spaces” with an estimated value of \$85,000. Drawings attached to the Horwitz permit show that this basement-level mechanical work was to support new locker rooms for Men’s Soccer, Women’s Soccer, Women’s Softball, Rowing, Visiting Team. Officials’ Space, plus Lobby Circulation, Mechanical, and Electrical needs. Other permits issued for the basement work were 2023 104416 \$3,500 and 2023 109872 \$9,000. The multiple permits establish that UST has incurred expenses well in excess of \$1,250,000 in remodeling both floors of the Binz Building in 2022-2023.

In addition, UST was installing a new connection from the Binz Building to the Campus Steam System, Permit 2023 7519 for \$1,046,033 (only a portion should be attributed to Binz). In doing this work, UST’s contractors tore up most of the parking lot pavement north of Binz and east of Grace. This is the same location as UST would most likely construct any new driveway access to Binz and Brady. This same area will need to be reconstructed in the near future. The future reconstruction of the parking area north of Binz neatly fulfills Doug Hennes’ 2004 request that replacement of the Goodrich Driveway wait until it could be constructed as part of the University’s South Campus construction project.

3. The February 26, 2025 Letter from UST (written by Winthrop & Weinstein) has its Facts Wrong and is Unpersuasive.

The Goodrich Avenue Driveway begins on the north edge of Goodrich Avenue and ends at the Brady Learning Center loading dock, right where the “15 minute parking zone” is highlighted. (See curb in photo 4). The driveway has never provided access to Grace Hall. What looks like a continuous driveway in the aerial photograph is a sidewalk; it is not a driveway. Recently, I watched as an Uber driver entered the Goodrich Avenue Driveway, proceeded to the

Brady loading dock area, and there picked up a female student who had just left Grace Hall. The reasons why the neighbors fought to get the driveway removed are still valid today.

4. UST is Wrong when it Argues that Paragraph 16 is “ambiguous” and that it doesn’t know “what it would mean to ‘remodel’ the Binz Building,” See page 4 of UST’s Feb. 26 Letter.

The Dictionary of Real Estate Appraisal, 7th Ed., 2022, defines “remodeling” as “A type of renovation that involves modification or updating of existing improvements.” The City of Saint Paul Code of Ordinances, in Section 331A.03, dealing with Food Protection Standards, states: “Remodel means any reconstruction, alteration or repair that requires structural, plumbing, mechanical or electrical permits; changing the location of walls....” Whichever definition applies here, it is indisputable that the work undertaken on both levels of the Binz Building in 2022/2023 at a cost in excess of \$1,250,000 constitutes a “remodel” of the Binz Building so as to require UST to remove “the loading drive which currently exists between Goodrich Avenue and the Binz Refectory ... such that there shall be no vehicular access from Goodrich Avenue to any of the University’s buildings on the South Campus.”

As originally agreed between Mr. Hennes and me, the paragraph concerning the Goodrich Avenue Access was entitled “South Campus.” We did this because we expected the new access from the north to Binz would be constructed when the University next began a construction project on the South Campus. The new Arena is presently being constructed on the South Campus. Now, as the South Campus is being significantly changed, is the time for the University to honor its promise, construct a new access from the north to the Binz Building, and close the Goodrich Avenue Access.

By that date, at the latest, UST was required to comply with Paragraph 16 of the CUP by removing the Goodrich Avenue Driveway. For well over one year, however, the University has

failed to undertake any action to remove “the loading drive which currently exists between Goodrich Ave. and the Binz Refectory....”

UST argues that neither it nor the City are bound by the terms of the 2004 CUP. I argue that a written contract should be interpreted just the way it was written. The “Release of All Claims” is a legal document signed by both UST and the City, in resolving a lawsuit in which both were defendants. UST has gained many benefits from the 2004 CUP; its concomitant obligations and conditions do not disappear simply by the passing of 20 years. “All for the Common Good” UST’s marketing slogan, certainly should not include reneging on written, legal commitments. No statute of limitations authorizes both UST and the City to disavow their commitments to the neighbors.

Respectfully submitted,

I declare that I have read the foregoing and know the contents thereof, and that the facts set forth are true and correct to the best of my own knowledge, memory, and belief.

February 28, 2024

/s/ Marc J Manderscheid
Marc J Manderscheid
2136 Goodrich Avenue
Saint Paul, MN 55105
marcmanderscheid@comcast.net

From: [Kathryn Mitchell](#)
To: [*CI-StPaul Contact-Council](#); [#CI-StPaul Ward4](#)
Subject: Conditional use permit (CUP)
Date: Thursday, February 27, 2025 10:09:22 PM

Some people who received this message don't often get email from mitch040@msn.com. [Learn why this is important](#)

Dear City Council Members,

As a 20 + year resident of Summit Avenue, living directly across the street from the Saint Paul Seminary and the new construction, I share with you my concerns for the future of this community. Clearly St. Thomas is out of compliance with the 2004 negotiated agreement (CUP) for the temporary driveway from Goodrich Avenue into this area. It is quite shocking and unbelievable to hear them state now that they did not mean what they agreed to and they did not really mean to remodel and "pay no attention to what we have done or are doing"! Smoke and mirrors yet again. As a law abiding and tax paying resident, I know my feet would be held to the fire for such noxious disregard of agreements, rules and regulations as would my neighbors. In addition to the violations of the CUP, consider the beautiful and very expensive, taxpayer funded, brick structure of that area of Goodrich Avenue. Clearly it was intended to handle quiet neighborhood traffic, not the heavy tonnage of buses and delivery vehicles accessing this area. Please do the due diligence of your representation and enforce the removal of this now illegal driveway. If it is left it will bring heavy delivery trucks and buses in droves with motors running. In addition, it will be a magnet for drop off and pick up at the site for cabs, Lyfts, Ubers and others creating noise and pollution to what should be a quiet residential neighborhood. Currently many heavy buses and trucks travel on both sides of Summit and Mississippi River Road, well over the 9000 pound limit established for parkways by the City Council many years ago with no consequences of ticketing or towing. They often park with motors running for hours, adding noise and serious pollution. I testified in person at the last Planning committee meeting, but will be unable to attend your meeting March 5. Please do the right thing as the Planning commission did and ensure the driveway is removed as agreed to in the CUP. Feel free to contact me if you have any questions at this email or 651-328-1973.

Thank you for your attention and diligence as you represent this city.

Sincerely,

Kathryn Mitchell
2279 Summit Avenue

From: [Nancy G](#)
To: [CouncilHearing \(CI-StPaul\)](#)
Subject: Public comment for March 5, 2025 University of St. Thomas appeal of Planning commission decision on drive access from Goodrich Avenue
Date: Thursday, February 27, 2025 9:13:10 PM

You don't often get email from nancy.a.garrett@gmail.com. [Learn why this is important](#)

Public comment for March 5, 2025 University of St. Thomas appeal of Planning commission decision on drive access from Goodrich Avenue

Hello,

I live within 350 feet of the University of St. Thomas and am writing to support the removal of the Goodrich Avenue driveway to the St. Thomas campus.

The University had agreed to remove the driveway once the cafeteria was remodeled, and I think that is important. Goodrich is used by many pedestrians and lacks a sidewalk between the driveway and Summit Avenue. The additional car/truck traffic from the University puts pedestrians at risk and puts a burden on a residential neighborhood.

Thank you,

Nancy Garrett

2221 Riverwood Place, St Paul, MN 55104

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Nancy Garrett

nancy.a.garrett@gmail.com

651-214-8674

From: [Tom Moss](#)
To: [*CI-StPaul Contact-Council](#); [#CI-StPaul_Ward3](#); [#CI-StPaul_Ward4](#)
Subject: Comments on Case ZF #04-054-501 -- Removal of Binz Building Driveway on Goodrich Avenue
Date: Thursday, February 27, 2025 7:36:18 PM

You don't often get email from tom@psg.us. [Learn why this is important](#)

City Council: I am resubmitting this comments on the upcoming issue of the Binz driveway off Goodrich Tom Moss

Re: Review of a conditional use permit (ZF #04-054-501) for noncompliance of Planning Commission conditions.
University of Saint Thomas 2260 Summit Ave, Saint Paul MN 55105 — between Mississippi River Blvd. and Cretin Avenue S.
H2, District Council 14, Ward 4

From: Thomas and Susan Moss — 175 Woodlawn Avenue, St. Paul MN 55105

My name is Tom Moss. My wife Susan and I have lived at 175 Woodlawn Avenue (just a block and a half south of the Binz driveway) since 1992. We strongly oppose allowing the University of Saint Thomas to keep the Binz driveway in violation of the existing CUP and St. Thomas' past legally binding commitment to the neighborhood through the 2004 settlement agreement. **We urge the Zoning Committee to reject their request to unilaterally amend a CUP that was agreed to by many parties.**

We drive down that stretch of Goodrich often. Day and night the north side is filled with parked cars from St. Thomas students and staff. Increasingly the south side has many cars illegally parked especially when there are games on the athletic fields. There is sometimes not room for two cars to pass on that stretch of Goodrich, especially when large delivery trucks come through. Winter snow and ice will make the street even more narrow.

The new arena is expected to be often at full capacity now that St. Thomas has joined a larger collegiate hockey conference, and as it openly speaks about its need and intent to raise revenue from the arena through a year-round calendar of other non-STU athletic events — concerts, exhibitions, high school games, etc. The Binz building is now basically an athletic annex to the arena site, and it will likely be a center for deliveries intended for the arena activities, as well as a drop-off/pick-up spot for arena attendees.

I represented this area on the Mac Groveland Community Council when the CUP was negotiated. The parties were well aware of St. Thomas' bold ambitions for growth ("to become like Notre Dame") and were determined to put guardrails on that growth's future impacts on the neighborhood. I remember well how important it was for nearby residents that the Binz driveway be a part of any negotiated solution. Rather than have it removed at that time, we settled for an eventual removal when and if Binz or Grace Hall were remodeled as part of St. Thomas's growth ambition. Binz was recently remodeled extensively at a cost

of \$1.3 million as part of UST's D-1 athletic status, but St. Thomas quietly ignored its promise to the neighbors, neighborhood organizations and the City — and left the driveway in place. The Zoning Committee should wonder what other parts of that comprehensive CUP St. Thomas has violated, or intends to violate in the future.

We urge you to direct City staff to do a comprehensive review of St. Thomas' compliance with ALL of the CUP's terms. In the meantime, hold them accountable for removing the driveway.

In 2004 the City of St. Paul — led by the council person representing this area — brokered a deal that was eventually accepted by all the relevant parties, including St. Thomas. Each got some of what they wanted, and each made concessions. St. Thomas conceded the potential future loss of the Binz driveway. Twenty years later, in the arena development process, there has been no similar effort to broker an amenable settlement of neighborhood interests with those of St. Thomas. Instead, STU has pushed its own agenda with the City and the City has agreed to it — even going so far as to let them continue construction without a valid EAW. Presumably the City has based its support for the arena in large part on the representations and promises that St. Thomas has made about its use of the arena and its plans to mitigate any negative environmental and neighborhood effects. **But if St. Thomas is unwilling now to honor a city-brokered commitment from the 2004 CUP, why should the City, the neighborhood or anyone expect them to abide by any and all of their stated intentions about the arena going forward?**

Please set and reinforce a precedent of holding St. Thomas to its word.

Sincerely,

Tom and Susan Moss
175 Woodlawn Avenue
612-790-7831